IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

SUMMONS FOR JUDGMENT NO.37 OF 2014
IN
SUMMARY SUIT NO.2279 OF 2009

Unity Infraprojects Limited ….Plaintiff
V/s.
Srimauli Infrastructure Pvt. Ltd. & Anr. ....Defendants

Ms. Chaitrika Patki i/b. Vidhii Partners for the plaintiff.
None for the defendants.

CORAM : K.R.SHRIRAM,J
DATE : 14th JUNE, 2016

P.C.:-

1 The plaintiff had tried to serve the writ of summons upon the defendants and the same came back undelivered with the endorsement “shifted”. Though the registered office address remains the same where attempt to serve the writ of summons was made, this court permitted the plaintiff to serve the defendants by way of substituted service. The plaintiff have served the defendants by way of substituted service and have filed an affidavit of publication of one Major (Retd.) G.S. Reddy affirmed on 4th March, 2016. Despite that the defendants are not present today.

2 The defendant no.2 it is alleged is the Chairman and Managing Director of the defendant no.1. I asked the counsel for the plaintiff as to how the suit against defendant no.2 can lie and how can they ask for a summary decree. The counsel for the plaintiff in fairness submitted that leave to defend for defendant no.2 be granted.

As regards defendant no.1, no affidavit in reply or application for leave to defend has been filed. The plaintiff have filed an affidavit in lieu of examination in chief of one Major (Retd.) G.S. Reddy affirmed on 29th April, 2016, affidavit of list of documents dated 29th April, 2016, which are taken on record and marked **Exhibit P-1 & P-1A**, respectively. The plaintiff have also filed a compilation of documents, which is taken on record and marked **Exhibit P-2** collectively. The explanation given in the said affidavit for filing photocopies are accepted.

3 Under Order 37, Rule 3, Sub-Rule 6 of the Code of Civil Procedure if the defendant has not applied for leave to defend the plaintiff is entitled to judgment. The defendant no.1 has not appeared nor has filed any reply. There is no opposition to the summary decree being sought and the allegations in the plaint are uncontroverted.

4 In the circumstances, the suit against defendant no.1 is decreed. The office to draw up the decree accordingly.

The defendant no.2 is granted unconditional leave to defend. The defendant no.2 to file the written statement and serve a copy thereof upon the plaintiff within two weeks from today.

5 The counsel for the plaintiff seeks leave to take back the original documents filed against filing of photocopies, certified as true copy by the advocate on record for the plaintiff.

The Prothonotary and Senior Master to return the original documents filed by the plaintiff upon being satisfied that the same are being substituted with photocopies certified as true copy by the advocate on record for the plaintiff.

6 The suit be listed for directions on 8th July, 2016.

(K.R.SHRIRAM,J)