

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

CIVIL REVISION APPLICATION NO. 209 OF 2016

Enhance Ambient ..Applicants
Communications Pvt Ltd

Vs

Universal Telecommunications .. Respondent
India Pvt Ltd.

AND

CIVIL REVISION APPLICATION NO. 210 OF 2016

Enhance Ambient ..Applicants
Communications Pvt Ltd

Vs

Indus Mobile Distribution Pvt. .. Respondent
Ltd

Mr. Karl Tamboly a/w Rhishikesh Bidkar a/w Surya Abhishek i/b.
M/s Hariani and Co, Advocates for Applicants.
Mr. Sachin Kadam, Advocate for Respondent.

CORAM : R.G.KETKAR,J.
DATE : 24/01/2017

PC:

1. Not on Board. At the request of Mr.Tamboly, taken up in production board. Heard Mr. Karl Tamboly, learned counsel for the applicants and Mr.Sachin Kadam, learned counsel for the respondent at length.

2. These Civil Revision Applications take exception to the Judgment and order dated 6.9.2015 passed by the learned Judge, City Civil Court, Greater Bombay in Notices of Motion No.3391 of 2015 and 3392 of 2015 in Summary Suit No. 2302 of 2013. By

that order, the learned trial Judge allowed the Motions and set aside exparte decree dated 4.4.2014 subject to defendant no.1 depositing sum of Rs. 5,51,500/- and defendant no.2 depositing sum of Rs.6,56,233/- in the Court within one month from the date of the order. Upon depositing the amount, decree dated 4.4.2014 shall stand set aside and execution proceeding no.1162 of 2015 shall also stand disposed of accordingly. It was also clarified that in case the defendant fails to comply, order shall stand cancelled.

3. Mr. Tamboly submitted that in pursuance of the impugned order, the defendants have deposited Rs. 12,07,733/- in the trial Court within the stipulated period. Mr. Tamboly submits that the applicants do not intend to challenge the impugned order if they are permitted to withdraw the amount deposited by defendants no.1 and 2 in the trial Court by furnishing Bank Guarantee of the nationalised Bank. He further submits that the applicants will take out Summons for Judgment and all contentions in that regard may be kept open.

4. Mr. Kadam has no objection if the applicants withdrawing the amount subject to furnishing Bank Guarantee of the equal amount of the nationalised Bank. He further submits that while disposing of the Summons for Judgment, the learned trial Judge may be directed to pass appropriate order in relation to the amount so withdrawn by the applicants in pursuance of this order.

5. In view thereof, by consent of the parties, Civil Revision Applications are disposed of in the following terms:

(i) Applicants will be permitted to withdraw the amount of Rs.12,07,733/- along with interest accrued thereon subject to furnishing Bank Guarantee of equal amount of the nationalised Bank to the satisfaction of Registrar of City Civil Court. Bank Guarantee shall be kept alive during the pendency of the Summons for Judgment and if occasion arises thereafter as well.

(ii) Applicants are at liberty to take out Summons for Judgment and all contentions of the parties in that regard are expressly kept open. Order accordingly.

(R.G.KETKAR, J.)