

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

**APPEAL FROM ORDER NO.818 OF 2016
WITH
CIVIL APPLICATION NO.1022 OF 2016
IN
APPEAL FROM ORDER NO.818 OF 2016**

Tarini Steel Company Ltd.

... Appellant

vs.

Sandvik Asia Private Limited & Anr.

... Respondents

Ms. Chaitrika Patki i/b M/s. Vidhi Partners for the Appellant.

Mr. Shrinivas Deshmukh a/w Mrs. Pratiksha Avadh and Mr. Deep Shah
i/b M/s. Mulla & Mulla & Craigie Blunt & Caroe for the Respondents.

Coram : **A.A.Sayed, J.**

Date : 21 March 2017

P.C. :

1 This Appeal impugns two separate orders dated 22 April 2015 passed by the Joint Civil Judge Senior Division, Pune whereby the two Applications of the Appellant/original Plaintiff came to be rejected. One Application was filed by the Appellant seeking mandatory directions against the Respondents to perform the Contract and the other Application was filed for attachment before judgment.

2 The suit is filed for specific performance of a contract in respect of construction and installation of an industrial furnace by the Respondents in the factory of the Appellant and for damages and compensation for losses due to breach of the Contract.

3 So far as the Application for mandatory directions to perform the contract is concerned, the grant of such relief at interlocutory stage would tantamount to the grant of final relief in the suit. In the circumstances, no fault can be found with the impugned order rejecting the Application.

4 So far the Application for seeking attachment before judgment is concerned, only a bald assertion is made in the Application that there are chances that during the pending of the suit, the Respondents may sell their company and the properties of the company. Nothing is brought on record to show that the Respondents are likely to sell the Company or its properties, as alleged. In the circumstances, no fault can be found with this impugned order rejecting that Application also.

5 It may be recorded that though the learned Counsel for the Appellant has suggested that the Respondents atleast be directed to carry out the trials, the learned Counsel for the Respondent No.1 has submitted that the trials were carried out earlier and that the Respondent No.1 does not now have manpower as the particular division of the Respondent No.1 has closed down. However, considering the facts and circumstances of the case and inasmuch as it is pointed out that because of default on the part of the Respondents, the Appellant is suffering huge losses as they have taken loan from the Bank for construction of the furnace which is presently not functioning

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and they required to pay interest, the trial Court is directed to decide
the suit expeditiously and preferably before 30 September 2018.

6 Subject to the above, the Appeal from Order is dismissed. No
order as to costs.

7 The Civil Application does not survive and to stand disposed of.

(A.A.Sayed, J.)

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