

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE SIDE JURISDICTION
WRIT PETITION NO. 8508 OF 2017

M/s. Universal Expositions Pvt. Ltd and OrsPetitioners

V/s.

M/s. Meroform India Pvt. Ltd.Respondent

Mr. Yahya Ghoghari a/w Ms. Smita Sawant i/b Dave and Co.
Advocate for Petitioner.
Mr. E. A. Sazi for Respondent no. 1.

CORAM : Mrs. MRIDULA BHATKAR, J.

DATED : JULY 26, 2017.

PC :

Not on board. Upon urgent mentioning, taken on board.

1) Rule. Rule made returnable forthwith. By consent, petition is heard finally and decided at the stage of admission.

2) By way of this petition, the order dated 28/06/2017 passed by the learned Judge of the City Civil Court, Greater Bombay in Summons for

ism

Judgment No. 48 of 2013 in Summary Suit No. 2839 of 2012 (S.C. summary suit no. 527 of 2012) is challenged.

3) Plaintiffs are having business of providing necessary amenities for arrangement of exhibition and construction of super structures in the trade fair and such other activities. Defendants have approached the plaintiff company as they wanted to organise a trade fair in the year 2008. The defendants hired the services and also ordered to put some structures at the trade fair. As per the order, the said work was done by the plaintiff company for the defendants. However, as per the case of the plaintiff, the balance amount of Rs. 11,55,060/- was due and payable by the defendant no. 1 to the plaintiff. Hence, the plaintiff filed summary suit and taken out summons for judgment which was served on the defendants pursuant to which defendants appeared and argued the case. After considering the affidavit-in-reply and the submissions, the learned Judge of the trial court granted conditional leave to defend the suit in favour of the defendants, subject to depositing sum of Rs. 17,49,654/- in the trial court (which includes principal amount + interest).

4) The learned counsel for the petitioner submits that there was no agreement between plaintiff and defendants. The entire case is based on the running account and the invoices. Petitioners seriously challenged the maintainability of the summary suit. An unconditional leave to defend should have been passed. The learned counsel for the respondent/original plaintiff has supported the order passed by the learned Judge of the City Civil Court.

5) Perused the order, considered the dispute between the parties and so also the documents. The business transactions between two parties is not denied by the parties. The plaintiff claimed principal amount of Rs. 11,50,060/- due from the petitioner. In view of this, order of granting conditional leave cannot be faulted with. However, the amount is reduced as follows.

(a) The order of granting conditional leave to defend passed by the learned trial Judge is hereby maintained.

(b) The only amount can be reduced to Rs. 10,00,000/- which is to

be deposited within two weeks from today in two installments i.e. 5,00,000/- till 11/08/2017 and further 5,00,000/- till 21/08/2017.

6) Writ petition is accordingly disposed of

(MRIDULA BHATKAR, J.)