

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

NOTICE OF MOTION NO.19 OF 2014

IN

SUMMARY SUIT NO.62 OF 2013

IDBI Trusteeship Services Ltd.	... Applicant
and	
IDBI Trusteeship Services Ltd.	... Plaintiff
v/s	
Hubtown Ltd.	... Defendant

Mr Sandeep Parikh with Mr Aditya Mehta, Mr Vineet Unnikrishnan and Ms Aditi Thakur i/b M/s Cyril Amarchand Mangaldas for Applicant.

Mr Prakash Shinde i/b M/s MDP and Partners for Defendant.

CORAM : B.P. COLABAWALLA, J.

DATE : OCTOBER 4, 2017

P.C.:

1. This Notice of Motion has been filed seeking a direction against the Defendant to disclose on oath the properties and assets belonging to the Defendant and for attachment before judgment under Order XVIII Rule 5 of CPC. Initially when this Summary Suit was filed, Summons for Judgment was taken out and unconditional leave to defend the Suit was granted by this Court on 8th May 2015.

Aggrieved by this order, the Plaintiff approached the Supreme Court and by its order dated 15th November 2016, the Supreme Court granted conditional leave to defend the Suit either by depositing a sum of Rs.418 crores in this Court or by furnishing security for the said amount to the satisfaction of the Prothonotary and Sr. Master of this Court within a period of three months from 15th November 2016. Pursuant to the order of the Supreme Court, the Defendant offered security of a large piece of land admeasuring approximately 16 acres situated at Mulund, Mumbai. This security was accepted by the Prothonotary and Sr. Master of this Court as compliance of the order of the Supreme Court. The order of the Prothonotary and Sr. Master of this Court is dated 10th April 2017. According to the Plaintiff, this security offered by the Defendant is not in compliance with the order of the Supreme Court dated 15th November 2016.

2. It is in these circumstances that the Plaintiff challenged the decision of the Prothonotary and Sr. Master of this Court dated 10th April 2017 under Rule 133 of the Bombay High Court (O.S.) Rules 1980. This challenge is pending before another learned Single Judge of this Court. Considering that all these proceedings have

taken place after filing of this Notice of Motion, the parties are ad-idem that nothing survives in this Notice of Motion and the same can be disposed off as infructuous.

2. Considering that now conditional leave has been granted to the Defendant and that the Defendant has furnished security to the satisfaction of the Prothonotary and Sr. Master of this Court and which of course is under challenge before another learned Single Judge, I do not think that Notice of Motion survives at this stage. The Notice of Motion is therefore disposed of as infructuous. Needless to clarify that in future, if any cause is made out for granting the reliefs prayed for in this Notice of Motion, the Plaintiff shall be at liberty to apply for the same.

(B.P. COLABAWALLA, J.)