

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
SUMMONS FOR JUDGMENT NO. 60 OF 2016
IN
SUMMARY SUIT NO. 424 OF 2016

Dr. (Mrs.) Ramila A. Sanghvi ... Plaintiff

Versus

M/s. K.K.B. Properties & Ors. ... Defendants

Mr. M. Behl i/b. M/s. Madekar and Company for the Plaintiff.

Ms. Pooja Kshirsagar i/b. M/s. Prakash and Company for the Defendants.

CORAM : S.J. KATHAWALLA, J.
DATED : 19TH JANUARY, 2017

JUDGMENT:

1. The above Summary Suit is filed by the Plaintiff under Order XXXVII of the Code of Civil Procedure, 1908 (CPC) for an Order and Decree against the Defendants to pay to the Plaintiff a sum of Rs.5,05,19,268/- for self and a sum of Rs. 4,27,15,055/- as Karta and Manager of Anant Lalchand Sanghvi (HUF) from 13th May, 2015 till the date of the filing of the Summary Suit together with further interest on Rs.4,85,50,000/- and Rs. 4,10,50,000/- at the rate of 4.5% per annum from the date of the filing of the Summary Suit till payment and / or realization, as per the Particulars of Claim annexed and marked as Exhibit-M to the Plaint.
2. According to the Plaintiff, by a Deed of Assignment dated 16th March, 2012 executed between the Plaintiff and Defendant No. 1, the Plaintiff conveyed

and transferred to the Defendants a newly constructed building admeasuring about 1043 sq.mts. comprising of 16 flats, situated and constructed on Plot No. 8 at Sector No. 22, Nerul, Navi Mumbai - Taluka, Dist. Thane for a total consideration of sum of Rs. 9,71,00,000/-. The Deed of Assignment was signed by Defendant Nos. 2 and 3 as the Partners of Defendant No. 1. The Defendant No. 1 issued cheques in favour of the Plaintiff and in favour of Anant Lalchand Sanghvi (HUF). Thereafter, Anant Lalchand Sanghvi passed away and the Plaintiff is the Karta and Manager of Anant Lalchand Sanghvi (HUF). Save and except an amount of Rs. 75 Lacs, the cheques issued / re-issued by the Defendants to the Plaintiff towards the said consideration were dishonoured. The Defendants have admitted their liability from time to time to pay the outstanding due but have failed to do so. The Plaintiff had filed criminal complaints being Nos. 988/SS/2013 and 989/SS/2013 in Metropolitan Magistrate, 33rd Court, Ballard Pier, Mumbai under Section 138 read with Section 141 of the Negotiable Instruments Act, 1881. During the pendency of the said criminal complaints, the Plaintiff and the Defendants entered into Consent Terms, whereunder the Defendants agreed to pay to the Plaintiff the entire outstanding dues. The Defendants at the time of signing of the Consent Terms paid an amount of Rs. 20 Lacs and paid a further amount of Rs. 10 Lacs on 21st September, 2015 to the Plaintiff but failed to pay the balance dues as agreed.

3. The Plaintiff has therefore file the above Summary Suit seeking the

liquidated sum of money on the basis of a written Contract i.e. Deed of Assignment dated 16th March, 2012.

4. After service of the Writ of Summons, Mr. Sameer Malusare, Advocate filed his appearance on behalf of the Defendants on 1st July, 2016. The Plaintiff therefore filed the above Summons for Judgment and served the same on the Advocate for the Defendants. Though the Defendants were required to file their Affidavit in Reply to the above Summons for Judgment within a period of 10 days from the date of service of the Summons for Judgment, they failed to do so. However, keeping in mind that the Plaintiff is a Widow, who is deprived of her legitimate dues by the Defendants who have taken over her valuable property since the year 2012, this Court directed the office to issue notice to the Defendants to remain present in Court on 6th January, 2017 at 03.00 p.m. The Defendants have remained present through their Advocate, when the Court without prejudice to the rights and contentions of the Plaintiff to obtain Judgment in the above Summary Suit gave them an opportunity to arrive at an amicable settlement. However, the Court is informed that the parties are unable to arrive at an amicable settlement. In view of Rule 6(a) of Order XXXVII of CPC, the Plaintiff is forthwith entitled to a Decree against the Defendants. Hence, the following order :

i. The Defendants are jointly and severally ordered and decreed to pay to the Plaintiff a sum of Rs. 5,05,19,268/- for self and a sum of Rs.4,27,15,055/- as

Karta and Manager of Anant Lalchand Sanghvi (HUF) from 13th May, 2015 till the date of the filing of the Summary Suit together with further interest on Rs.4,85,50,000/- and Rs. 4,10,50,000/- at the rate of 4.5% per annum from the date of the filing of the Summary Suit till payment and / or realization.

- ii. The Defendants shall pay to the Plaintiff the costs of the Suit.
- iii. Refund of Court fees, if any, as per Rules.
- iv. The Summons for Judgment as well as Summary Suit are accordingly disposed off.

(S.J.KATHAWALLA, J.)