

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

CHAMBER SUMMONS NO.56 OF 2016
IN
COMMERCIAL SUIT NO.62 OF 2014

Universal Medicare Pvt. Ltd., Mumbai	...	Applicant
<i>In the matter between</i>		
Universal Medicare Pvt. Ltd., Mumbai	...	Plaintiff
<i>Vs.</i>		
UCO Bank, Kolkata	...	Defendant

Mr. Sameer Pandit, a/w. Ms. Sarrah Khambati, i/by M/s. Wadia Ghandy & Co., for the Applicant-Plaintiff.

Mr. O.A. Das for the Defendant.

CORAM : S.C. GUPTE, J.

DATE : 19TH JUNE 2017.

P.C. :

1. This Chamber Summons is taken out by the Applicant-Plaintiff for striking out defence of the Defendant under Order 11 Rule 21 of the Code of Civil Procedure, 1908 and proceeding with the Suit as an undefended Suit. The order is sought on the footing that despite an order passed by this Court on 27th June 2016, directing the Defendant to produce and give inspection of those documents which are in their possession and power, as listed in the notice to produce the documents enclosed with the Plaintiff's letter dated 11th February 2016, the Defendant has failed to make available copies of the documents.

2. In reply to the Chamber Summons, learned counsel for the Defendant submits that, though the Defendant is bound by the order to give inspection of documents, as referred above, the Defendant is not bound to furnish copies of the documents to the Plaintiff. It is submitted that the documents, the copies of which are sought from the Defendant, are confidential in nature and, secondly, they pertain not only to the Plaintiff herein but also to three other parties, for whom a joint enquiry was made by the Reserve Bank of India. This Court has already directed the Defendant to produce and give inspection of the documents, as referred above. The argument that these documents are confidential in nature and that inspection thereof cannot be given to the Plaintiff was, admittedly, addressed before this Court when the directions to give such inspection of documents were issued by the Court. There is no application to review that order or have the same varied. In fact, there was an Appeal preferred from the order passed by this Court on 27th June 2016, but the Appeal was subsequently withdrawn by the Defendant.

3. In these facts, it is not open for the Defendant to now object to copies being made available to the Plaintiff. If the Defendant is not in a position to contest the order directing inspection of documents, making

available copies of the documents to the Plaintiff is merely a matter of convenience. The Defendant cannot object to the copies being made available on the grounds which are relevant to decide the question, *'whether inspection of these documents should be directed in the first place or not'*. Learned counsel for the Defendant submits that in case this Court is of the view that Defendant will have to make available copies of the documents to the Plaintiff, this Court may not proceed to pass an order sought in the Chamber Summons of striking out the defence and proceeding with the Suit as an undefended Suit. Learned counsel submits that his client would, in that case, be inclined to furnish copies of the documents to the Plaintiff.

4. Accordingly, the Defendant is directed to furnish copies of the documents referred to in paragraph (6) of the order dated 27th June 2016 within a period of two weeks from today. In case the copies are not furnished to the Plaintiff within the stipulated period, the defence of the Defendant is liable to be struck out and the Suit shall be proceeded as an undefended suit.

5. The Chamber Summons is disposed of accordingly.

[S.C. GUPTE, J.]