

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
IN ITS COMMERCIAL DIVISION
COMMERCIAL APPEAL [L] NO.94 OF 2017
IN
SUMMONS FOR JUDGMENT NO.47 OF 2017
IN
COMMERCIAL SUIT NO.188 OF 2017

Tulip Land & Developers Pvt. Ltd.	 Appellant/ (Ori. Defendant)
Vs.	
Tradelink Exim (India) Pvt. Ltd.	 Respondent (Ori. Plaintiff)

WITH
NOTICE OF MOTION [L] NO.83 OF 2017
IN
COMMERCIAL APPEAL [L] NO.94 OF 2017
IN
SUMMONS FOR JUDGMENT NO.47 OF 2017
IN
COMMERCIAL SUIT NO.188 OF 2017

Tulip Land & Developers Pvt. Ltd.	 Applicant
<i>In the matter between</i>	
Tulip Land & Developers Pvt. Ltd.	 Appellant/ (Ori. Defendant)
Vs.	
Tradelink Exim (India) Pvt. Ltd.	 Respondent (Ori. Plaintiff)

Ms Dipali Chimane with Ms Saira Mirzaker i/by
M/s. S.K. Srivastav & Co. for the Appellant.
Mr. Girish B. Kedia for the Respondent.

Mr. Gautam Ahuja, Director of the Appellant-Company,
present.

Mr. Anil Raika, Director of the Respondent-Company,
present.

CORAM: S.C. DHARMADHIKARI &
SMT. BHARATI H. DANGRE, JJ.

DATE : DECEMBER 15, 2017

P.C:

1. This is an appeal directed against order dated 31-10-2017 passed in a Summons for Judgment moved and taken out in a Summary Suit, namely, Commercial Suit No.188 of 2017.

2. By the order under appeal, the learned single Judge has disposed of the Summons for Judgment by directing the appellant/defendant to deposit in this Court a sum of Rs.1.65 Crores within six weeks from 31-10-2017, failing which the Suit was to be set down for an *ex parte* decree.

3. When this appeal was moved and was pending, both sides held, without prejudice, negotiations. That was for an

overall settlement, in the sense the parties are locked in litigation before this Court and equally before the Competent Criminal Court. Since this commercial dispute between two business entities allowed to prolong would not be in the interest of the parties, they continued such negotiations and eventually arrived at a settlement.

4. This settlement is reduced into writing and the terms are signed by both parties through their authorised representatives present in Court. The parties have understood the terms with all their legal implications and consequences. The parties have voluntarily given undertakings and in terms of the clauses of the settlement terms. They realise even the consequences of breach of such undertakings and which, if accepted, as given to Court. There is no pressure, force or undue influence while executing and signing these terms.

5. Since the terms put an end to a commercial dispute, we have perused the Consent Terms. We have perused equally the clauses where there are undertakings given by the parties.

Each of these undertakings are accepted as undertakings to this Court. Upon a perusal of the Consent Terms and being satisfied that they do not contravene any provision of law nor public policy, so also they are not vitiated by fraud, undue influence or coercion, we proceed to pass the following order:-

- (a) In the event the terms, as agreed, are honoured by the parties and particularly the appellant within the time stipulated in the said terms, the concerned officials in the Registry shall mark the decree as fully satisfied.
- (b) Needless to clarify that the above follows because the Summary Suit is decreed as per the Consent Terms tendered today and taken on record and marked "X" for identification.
- (c) In the event of default, as stated in the terms, the decree shall become executable forthwith and then the decree-holder can proceed to recover the amounts in accordance with law.
- (d) Further needless to clarify that since this Court has taken the terms on record and passed an order in furtherance thereof, all the Competent Courts and Tribunals shall take due note of the

same and not proceed with any legal proceedings until the time stipulated in the terms comes to an end or there is default, as stated in the terms.

(e) In the event the terms are honoured, the legal proceedings shall come to an end.

6. In view of the above, the appeal does not survive and stands disposed of accordingly.

7. Since the Summary Suit has been decreed before us, the Registry shall compute the Court fee as per rules and release the amount in favour of the plaintiff.

8 In view of disposal of the appeal, Notice of Motion {L} No.83 of 2017 also does not survive and stands disposed of accordingly.

(SMT. BHARATI H. DANGRE, J.)

(S.C. DHARMADHIKARI, J.)