

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
IN ITS COMMERCIAL DIVISION**

**NOTICE OF MOTION NO.87 OF 2017
IN
COMMERCIAL SUIT NO.21 OF 2017**

Prithvi Nandy Communications Ltd.)...Applicant/Plaintiff
V/s.

Arjun Rampal)....Defendant

WITH

COUNTER CLAIM (NOT YET REGISTERED)

— — — —

Mr.Rohan Sawant a/w Ms.Poonam Teddu I/by Mahesh A.mahadgut
for applicant/plaintiff.

Mr.Rumi Mirza I/by Dipes h Mehta & Kaushal thakker for defendant.

CORAM : K.R.SHRIRAM,J

DATE : 21.11.2018

P.C.:-

NOTICE OF MOTION NO.87 OF 2017

1. Mr.Sawant for the applicant states, at this point, they do not wish to press the Notice of Motion No.87 of 2017 and seeks leave to withdraw the Notice of Motion with liberty to take out fresh Notice of Motion if advised. Notice of Motion dismissed as withdrawn with liberty as prayed for.

COMMERCIAL SUIT NO.21 OF 2017

1. Heard the counsel. The following common issues are framed in the suit as well as in the Counter Claim.

ISSUES

1) Whether plaintiff in the suit as well as in the Counter claim prove that their respective claims are filed within limitation ?

2) Whether plaintiff proves that defendant has to refund the amount of Rs.1,05,00,000/- that plaintiff paid as advance together with interest thereon at the rate court may decide and for the period court may decide, if the movie for which amount was paid as advance, was not made ?

3) Whether defendant who is plaintiff in the Counter Claim proves that if the movie for which he was paid advance, was not made, he is still entitled to the entire amount of Rs.3.5 crores as he had blocked the dates for plaintiff and hence is entitled to appropriate amount of Rs.1.5 crores and claim the balance from plaintiff ?

4) What decree ? What order ?

2. Parties are further directed as under :-

(a) File affidavit of documents and serve a copy thereof on the other side on or before 30.11.2018 ;

- (b) inspection to be given by 5.12.2018 ;
- (c) Statement of admission and denial with reasons for denial to be exchanged by 8.12.2018 ;
- (d) Plaintiffs in the suit as well as Counter claim to file list of witnesses, affidavit in lieu of examination in chief together with compilation of documents and serve a copy thereof upon defendants in the suit as well as Counter claim by 15.12.2018 ;
- (e) All objections to be removed and Counter claim to be numbered within two weeks, failing which Counter claim shall stand dismissed without further reference to the court.

3 It is made clear that if affidavits of documents are not filed and inspection given, parties will not be permitted to rely upon any documents, copies whereof are not annexed to the plaint and/or written statement/Counter claim/written statement to Counter claim or mentioned in the list of documents annexed thereto. This, however, shall not prevent a party from confronting the witness of the other side with any document.

 If statements of admission and denial are not given within the time prescribed, parties shall be deemed to have admitted the existence of all the documents relied upon by the other side.

4 Stand over to 19.12.2018 for marking of documents/recording of evidence at which time plaintiff's 1st witness shall remain present in court.

(K.R.SHRIRAM,J)