

IN THE HIGH COURT OF JUDICATURE AT BOMBAY**ORDINARY ORIGINAL CIVIL JURISDICTION****COMMERCIAL SUMMARY SUIT NO. 168 OF 2015**

Makharia Machineries Pvt. Ltd.

...Plaintiff

Vs.

Nawa Engineers & Consultants (P) Ltd.

...Defendant

Mr. Faran Khan, i/b. Sathyanarayanan, for the Plaintiff.

.....

CORAM : S.C. GUPTE, J.**DATE : 12 APRIL & 4 JUNE 2018****P.C. :**

. This commercial summary suit is filed by the Plaintiff for recovery of a money claim. Writ of summons has been duly served on the Defendant. There is an affidavit in proof of service, which is already filed and taken on record. In spite of service of writ of summons, the Defendant has not entered appearance. The Plaintiff is accordingly entitled to a decree forthwith. The decretal dues have been worked out in the particulars of claim as Annexure-I to the plaint *inter alia* calculating interest in accordance with the written contract for sale of goods between the parties evidenced by the tax invoices. Based on the particulars, the balance outstanding principal amount is said to have been worked out.

2. During the pendency of the suit, the Defendant has made various part-payments. The Petitioner has accordingly tendered new particulars of claim on 12 April 2018 giving credit for the amounts received from the Defendant during the pendency of the suit, the last of

such payments having been received on 18 February 2017. The same are taken on record in place and stead of the original particulars of claim forming part of the plaint. It is submitted that the entire amount of payment received during the pendency of the suit may be appropriated towards principal amount due as at the date of filing of the suit. The principal amount due as at the date of filing of the suit was Rs.2,68,41,013/-. Taking into account the payment during pendency of the principal suit, the principal due at the date of the decree is Rs.1,53,20,508/-. Adding to that the interest accrued until the date of the filing of the suit, namely, Rs.89,15,271.55, the total amount due as at the date of the decree is Rs.2,42,35,779, which comprises of principal amount of Rs.1,53,20,508/- and interest of Rs.89,15,271.55 along with *pendente lite* interest at the rate of 12% p.a. from the date of the suit till the decree and thereafter till payment or realization of the principal amount of Rs.1,53,20,508/-. Learned Counsel for the Petitioner has agreed to accept *pendente lite* interest on this particular principal amount after taking into account the payments made so far. The suit is accordingly decreed for the sum of Rs.2,42,35,779/- together with *pendente lite* and post-decree interest as above. Drawn up decree is expedited.

(S.C. GUPTE, J.)