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IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

SUMMONS FOR JUDGMENT NO. 30 OF 2018

IN

COMMERCIAL SUMMARY SUIT NO. 97 OF 2018

Chetan Papers Private Ltd. ... Plaintiff

vs.

Utility Printpack Pvt. Ltd. ... Respondent

Ms. Dipti Panda i/b. Narayanan and Narayanan for the Plaintiff.
Mr. K. T. Kukreja a/w. Ms. Bhumika Gada a/w. Mr. N. A. Gharkar i/b, Arvind Manghirmalani for the Defendant.

CORAM : A.K. MENON, J.
DATE : 16th JULY, 2018

P. C.

1. By this summons for judgment the plaintiff seeks a decree in a sum of Rs. 2,07,31,746/-. As set out in the particulars of claim. Interest is claimed @ 24% per annum. Admittedly there is no agreement on the rate of interest, if any, payable. The plaint proceeds on the basis that vide letter dated 31st March, 2015 the defendant has admitted liability in a sum of Rs. 2,17,87,566/- . The letter also deals with a sum of Rs. 10,39,364/- due to one Monarch Paper. We are not concerned in this suit with the said sum of Rs.10,39,364/-

2. It is the case of the plaintiff that in a company petition filed by the present plaintiff the defendant had been directed to deposit a sum of Rs. 2 crores. It is

stated by Ms. Panda, learned counsel for the plaintiff that this sum has been deposited and the total liability as recorded in paragraph 2 of the company petition no. 953 of 2015 is Rs.2,17,87,566/- which is the very same figure that appears in Exhibit-R.

3. Today at the hearing of the Summons for Judgment Mr. Kukreja states that in view of the fact that a sum of Rs. 2 crores has already been deposited the balance sum of Rs.17,87,566/- will be deposited within a period of six weeks from today. In view of the aforesaid I pass the following order :

(i) The defendant will be entitled to defend the suit subject to depositing with the Prothonotary & Senior Master a sum of Rs.17,87,566/- within a period of six weeks from today.

(ii) If the amount is deposited on or before 27th August 2018, the defendant shall filed its Written statement on or before 10th September 2018. so deposited, the said sum will be invested initially for a period of 366 days to be renewed on maturity for further similar periods of not less than one year.

(iii) If the sum of Rs. 2 crores said to have been deposited pursuant to order passed in Company Petition No. 953 of 2015 has been invested, the amount of Rs. 17,87,566/- shall be invested as aforesaid in the same bank.

(iv) If the amount of Rs. 2 crores is not invested till date, the entire sum of Rs. 2,17,87,566/- shall be invested upon deposit as aforesaid.

(v) The plaintiff will be at liberty to move an application for withdrawal of the amount deposited.

(vi) In the event of failure to deposit, the plaintiff will be entitled to apply for an ex-parte decree.

(vii) The Summons for Judgment is disposed of in the above terms.

(A.K. MENON, J.)

Rajeshwari Ramesh Pillai

Digitally signed by Rajeshwari Ramesh Pillai
Date: 2018.07.19 13:33:42 +0530