

rrpillai

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
SUMMONS FOR JUDGMENT NO. 40 OF 2016
IN
COMMERCIAL SUMMARY SUIT NO. 287 OF 2017

Sumangal Polymers	... Plaintiff
vs.	
Govinda Industries and Anr.	... Defendants

Ms. Asha Bhuta for the Plaintiff.
None for the Defendant.

CORAM : A.K. MENON, J.
DATE : 3rd SEPTEMBER, 2018

P. C.

1. Summons for Judgment called for hearing. On 30th July, 2018 the defendant and their Advocate were absent. The plaintiff were directed to serve summons for judgment on or before 6th August, 2018. It is stated that summons for judgment has been duly served and affidavit of service dated 2nd August, 2018 is on record and annexed forthwith letter of summons for judgment served upon Advocate for defendant duly acknowledged by the Advocate. However, even today none appears for the defendant.

2. The suit seeks recovery of the price of goods sold and delivered. The Plaintiff has relied upon copies of the invoices, originals which are stated to have been sent to the defendant. A number of delivery challans along with copies of invoices are filed in a compilation today. The delivery challans have the rubber stamps and

acknowledgments. These rubber stamps and acknowledgments are said to be of defendant no. 1 which is stated to be a proprietary concern of the defendant no. 2. Some delivery challans which are stated to have been misplaced and in view there of copies have been provided.

3. A letter dated 4th March, 2014 is also filed along with the compilation of documents which indicates that one Umesh Kela has handed over certain documents to the plaintiff as security for payment of the price of the goods sold and delivered. However these documents have been returned to the said Umesh Kela who has acknowledged receipt of the same in original. The letter also mentions that cheques issued by the defendant no. 1 would be honoured, but Ms.Bhuta contended that the cheques were not honoured but part payments were made. Furthermore, she relies upon confirmation of amounts at Exhibit A original of which is filed along with compilation. The defendants have also failed to reply to the demand notice of delivery to defendant no. 1 as evident from the averment in the plaint. The defendants not having filed any affidavit seeking leave to defend the suit, the plaintiff are entitled to a decree. In the circumstances, I pass following order :

(a) Summons for judgment is made absolute. The suit is decreed in terms of prayer clause (a) along with interest from date of suit till realization of payment @ 12% p.a.

(b) Refund as per rules.

(A.K. MENON, J.)

Rajeshwari
Ramesh
Pillai

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by Rajeshwari
Ramesh Pillai
Date: 2018.09.10
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