

Shephali

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
SUIT NO. 1729 OF 2010**

SBI Global Factors Ltd ...Plaintiff
Versus
SRI Pamba Spinning Mill Pvt Ltd & Ors ...Defendants

Mr Dhawal Patil, i/b K Ashar & Co, for the Plaintiff.
Ms Nilofar Sajid Shaikh, Executive Legal, SBI Global Factors Ltd,
present.

CORAM: G.S. PATEL, J
DATED: 19th November 2018

PC:-

1. The Suit is for an *ex parte* decree. The Writ of Summons was duly served on the Defendants. There is on record an Affidavit of Service dated 1st February 2011 filed on 8th February 2011. The suit was transferred to the list of undefended suits on 14th March 2011. There is no vakalatnama filed on behalf of any of the Defendants. None of the Defendants is represented in Court today.

2. The Plaintiff seeks a money decree in the amount of Rs.28,17,17,738.27 in respect of a Trade Finance Facility as per the particulars of claim Exhibit "GG" to the Plaint, with further interest at the rate of 18% per annum, with monthly rests inclusive of penalty and additional interest. The decree is sought jointly and

severally against Defendants Nos. 1 to 4. The other prayer is that the repayment is secured by a mortgage of the immovable property described in Exhibit “U-1” to the Plaintiff.

3. The Plaintiff granted a Trade Finance Facility to Defendants No.1 by a sanction letter dated 2nd June 2007. The security documents executed by the Defendants to secure the repayment of the facility are listed in paragraph 4 of the Plaintiff. There were also continuing letters of guarantee. The sanction letter dated 3rd January 2008 was modified on 22nd January 2008 and further security documents executed. There were later modifications on 26th March 2008, 6th June 2008, 30th June 2008, 25th September 2008 and 2nd December 2008. These are thoroughly documented in the Plaintiff and its annexures. The Plaintiff says that there were admissions of liability dated 14th July 2009 and 11th September 2009. Repayment cheques issued by the 1st Defendant were dishonoured. The 1st Defendant failed to regularise its account. The Plaintiff demanded repayment by its Advocate’s notice dated 15th March 2010. It is in these circumstances that the claim is brought.

4. The Plaintiff has filed an Evidence Affidavit of 19th September 2018. There are two compilations of documents containing copies and certified copies. The first compilation has 54 documents. The additional compilation has 17 documents. The additional compilation has certified or true photocopies of the documents listed in the first compilation. The Plaintiff’s documents are collectively marked in evidence as **Exhibit “P1”**.

5. The Deponent of the Evidence Affidavit, Nilofar Sajid Shaikh is present in Court and affirms the correctness of the contents of her Evidence Affidavit.
6. In view of the failure of the Defendants to enter appearance or to defend the Suit, the Suit is accordingly decreed in terms of prayer clauses (a), (b), (c) and (d). As far as prayer clause (c) is concerned, 18th December 2018 will be the date for redemption.
7. The decree for interest in prayer clause (a) is limited to simple interest at 18% per annum. The claim for interest with monthly rests is rejected. Interest at the rate decree will run from the date of the suit.
8. The decree to be drawn up accordingly.
9. All concerned to act on an authenticated copy of this order.
10. The original documents tendered by the Plaintiff will be returned upon these being substituted with photocopies duly authenticated by the Advocates for the Plaintiff.

(G. S. PATEL, J)