

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

COMMERCIAL SUIT NO.454 OF 2017
WITH
SUMMONS FOR JUDGMENT NO.89 OF 2017

Lila Polymers Private Limited ... Plaintiff
Versus
Varsha Corporation Limited And Others ... Defendants
.....
Mr. Sarosh Bharucha I/b Divya Bahl for the Plaintiff.
....

CORAM : S.C.GUPTE, J.

DATE : 24 JANUARY 2018

P.C. :

. The Summary Suit is on Board for *ex parte* decree under Order 37 Rule 2 Sub-rule 3 of the Code of Civil Procedure 1908. The writ of summons was duly served on the Defendants on 27 July 2017. There is an affidavit filed by the Plaintiff in proof of such service. The service has also been noted in order dated 9 November 2017.

2 Despite such service, there is no appearance entered by the Defendant. In the premises, under Sub-rule 3 of Rule 2 of Order 37, the allegations in the plaint are deemed to be admitted by the Defendant and the Plaintiff is entitled to a decree for a sum not exceeding the sum mentioned in the summons for judgment together with interest. The invoices on the basis of which the present suit is filed provide for interest @ 21% for 15 days after raising of the invoice from the due date and @ 24% for the next 15 days and @ 30% per annum after the period of 30

days. The interest is calculated in the particulars of the claim in accordance with these clauses upto the filing of the suit and the decretal amount is worked out accordingly in the prayer clauses of the plaint. There will, accordingly, be a decree in terms of prayer clause -(a) except the claim for *pendete lite* and post decree interest, which shall be calculated @12 % per annum from the date of the suit and upto the date of payment.

3 Since the suit is placed and heard for ex parte decree and decreed under Order 37 Rule 2(3) of the Code of Civil Procedure 1908, there is no occasion for issue of a summons for judgment. The summons for judgment, which is wrongly taken out in the present suit by the Plaintiff, is disposed of accordingly.

(S.C. GUPTE, J.)