

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

COMMERCIAL SUIT NO.52 OF 2012

Koradium NV	...	Plaintiff
Versus		
M/s Aviraj Gems And 5 Others	...	Defendants

.....

Mr. Rohaan Cama a/w Mr. Shanay Shah and Mr. Netaji Gawade I/b M/s Sanjay Udeshi & Co. for the Plaintiff.
Mr. Rajmani Varma I/b Navdeep Vora for Defendant Nos.3 And 6.

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CORAM : S.C.GUPTE, J.

DATE : 4 JANUARY 2018

P.C. :

. Heard learned Counsel for the Plaintiff and for Defendant Nos.3 and 6. The Summary Suit is placed for *ex parte* decree in pursuance of non-compliance with the deposit order passed against all the Defendants in the Summons for Judgment taken out in the suit.

2 There is a certificate of non-deposit issued by the Prothonotary and Senior Master. Certificate is placed on record by learned Counsel for the Plaintiff. This Court had noted on the last occasion, i.e. on 14 November 2017, that whereas the conditional leave granted by this court was challenged by Defendant Nos.2, 4 and 5, there was no challenge to it by Defendant Nos.3 and 6 and even as regard the challenge by Defendant Nos.2, 4 and 5, there was no stay granted in respect of the order. This Court had made clear in the order dated 14 November 2017 that if no stay

was obtained by the Appellate Court on or before the next date, the Court would proceed with the summary suit. Admittedly, there is no stay of the conditional leave granted by this court as of today. An *ex parte* decree must accordingly follow under Order 39 Rule 3, Sub-rule (6) of the Code of Civil Procedure, 1908. The suit is, accordingly, decreed in terms of prayer clauses-(a) and (b) of the plaint.

(S.C. GUPTE, J.)