

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

**NOTICE OF MOTION IN COMMERCIAL DIVISION (L) NO. 880 OF 2017
IN
COMMERCIAL SUIT (L) NO. 749 OF 2017**

R.N. LABORATORIES PVT. LTD.

...PLAINTIFF

VERSUS

PARINEE REALTY PVT. LTD.

...DEFENDANT

Mr.Iqbal Chagla with Sharan Jagtiani, Priyank Kapadia with Maneck Mulla with Ajoy Khurana and Khushboo Malviya with Siddha Pamecha I/b. Mulla Associates for Plaintiff/Applicant.

Mr.Mayur Khandeparkar with Nivit Srivastava, Harsh Behany I/b. Maniar Srivastava Associates for Defendant.

CORAM : S.C. GUPTE J.

DATE : 16th January 2018

P.C. :

Learned Counsel for the parties invite the court to dispose of the notice of motion in terms of the following order. It is ordered accordingly as follows :

1. The Defendant admits and acknowledges that under the Consent Terms dated 15th May, 2017 filed in Suit No (L). 235 of 2015 (“**Consent Terms**”), an amount of Rs. 8,02,90,368/- (Rupees Eight Crores Two Lacs Ninety Thousand Three Hundred and Sixty Eight Only) (“said Amount”) was to be paid in 5 Agreed Instalments. The

Defendant had further agreed and acknowledged that the said Amount or the outstanding part thereof was an undisputable debt due to the Plaintiff. It was also provided in the Consent Terms that in the event of default on the part of the Defendant to pay to the Plaintiff the Agreed Instalment on their respective due dates, the Defendant shall be liable to pay interest on such balance outstanding amounts @ 18% p.a. from the date of default till payment and / or realisation.

2. The Plaintiff admits and acknowledges having received a sum of Rs.2,25,00,000/- (Rupees Two Crores and Twenty Five Lacs Only) the details whereof are given below.

- a. 2nd August 2017 – Rs. 50,00,000/-
- b. 12th December 2017 – Rs. 75,00,000/-
- c. 6th January 2018 – Rs. 1,00,00,000/-

As on date, an amount of Rs. 6,16,05,502/- is due and payable and comprises of Rs. 5,77,90,368/- as the balance of the said Amount and Rs. 38,15,134/- as interest for the period of default of the Agreed Instalments.

3. The Defendant, for the payment of the aforementioned balance amount due as on date, together with interest thereon @ 18% p.a., shall sell Flat No. 602 (consisting of flat No.602-B and 602-B1) (“the

Suit Flat”) in the open market. The Defendant undertakes to this Court that the sale proceeds of the said transaction shall be paid first towards the satisfaction of the amounts due as on date from the Defendant to the Plaintiff. In the event the sale proceeds received from the sale of Suit Flat are deficient in satisfying the amounts due to the Plaintiff by the Defendant, then the Defendant shall secure the deficit amount by either paying the deficit or providing any security acceptable to the Plaintiff to sufficiently cover the deficit amount.

4. In the event, the Defendant is unable to sell the Suit Flat within a period of 90 days from the date hereof, the Court Receiver, High Court, Bombay shall stand appointed in respect of the Suit Flat. The Court Receiver shall obtain the valuation of the Suit Flat from his panel. In the event the valuation so obtained is deficient in satisfaction of the amounts due from the Defendant to the Plaintiff, then the Defendant shall secure the deficit amount by either paying the deficit or providing any security acceptable to the Plaintiff to sufficiently cover the deficit amount.
5. The Court Receiver, High Court, Bombay, thereafter may sell the Suit Flat by public auction in accordance with the due process of law. Sale proceeds received from the said public auction shall be first paid to the Plaintiff for the satisfaction of the amounts due from the

Defendant to the Plaintiff. In the event the sale proceeds received from the sale of the Suit Flat are deficient in satisfying the amounts due to the Plaintiff by the Defendant, then the Defendant shall secure the deficit amount by either paying the deficit or providing any security acceptable to the Plaintiff to sufficiently cover the deficit amount.

6. The Defendant shall also be at liberty to pay the dues under the Consent Terms independently through its own resources, but shall not delay the implementation of the terms and conditions set out in Clauses 2 and 3 hereinabove.
7. Upon receipt of the amount of Rs. 6,16,05,502/- along with interest @ 18% p.a. on the balance of the said amount, i.e. Rs. 5,77,90,368/- (Rupees Five Crores Seventy Seven Lacs Ninety Thousand Three Hundred and Sixty Eight only) from the date hereof till payment and / or realisation, the parties shall have no claim against each other and the Consent Decree as per Consent Terms shall be marked satisfied.
8. Further, upon the satisfaction of the Consent Decree in terms of the Consent Terms, the Plaintiff shall withdraw all the criminal complaints filed against the Defendant and its Directors before the Magistrate's Court, subject to the Defendant paying to the Plaintiff a

sum of Rs. 3,75,000/-, being 50% of the Court fees paid in respect of the criminal complaints. It is further agreed that in the meantime, the aforesaid criminal complaints will be kept in abeyance.

9. This Order shall in no manner be read to prejudice the rights and obligations of the parties under the Consent Terms.
10. Liberty to the Plaintiff to apply for further directions if required.

(S.C. GUPTE, J.)