

Sharayu Khot.

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

COMMERCIAL NOTICE OF MOTION NO. 1859 OF 2019
WITH
COMMERCIAL NOTICE OF MOTION NO. 1860 OF 2019
IN
COMMERCIAL SUMMARY SUIT NO. 1198 OF 2018

Wilson Jacobs ...Applicant

In the matter between

Wilson Jacobs ...Plaintiff

Versus

Lucid Prints & Ors. ...Defendants

Mr. Rashid Khan, i/by Ms. Sumi Soman, for the Applicant/Plaintiff.

Mr. Manoj Harit, i/by Manoj Harit & Co., for the Defendants.

CORAM : R.I. CHAGLA J.

DATE : 07 October 2019

ORDER :

1. The Notice of Motion No. 1859 of 2019 has been taken out in Commercial Summary Suit seeking an order of restrain, injunction and/or prohibition against the Defendants, their servants

and/or any other persons claiming through and/or under the Defendants from, in any manner, directly or indirectly, disposing, transferring, conveying, leasing, creating third party rights, alienating, modifying and/or otherwise dealing with any of their assets and properties described in Exh.A to the Notice of Motion. Further relief is sought for attachment of the property of the Defendants described in Exh.A herein.

2. The learned Counsel for the Applicant states that the Summons for Judgment has been taken out in the Commercial Summary Suit and conditional leave to defend had been granted to the Defendants, subject to deposit of a certain sum of Rs. 48,24,616/- as directed by this Court. The Defendants were unable to deposit the said sum. Thereafter, the Defendants had preferred an Appeal and the Division Bench by the order dated 4th June 2019 directed to deposit Rs. 48,24,616/- and condition upon such deposit, the Defendants would be entitled to leave to defend the Suit. The deposit was to be made within a period of eight weeks from the date of order i.e. 4th June 2019. The deposit would be with the Prothonotary & Senior Master. Upon such deposit, the Suit would be restored for adjudication on merits.

3. It appears that the Defendants were unable to comply with the said order dated 4th June 2019 by making deposit within a period of eight weeks as directed by the said order.

4. They have taken out the Notice of Motion (L) No. 766 before the Division Bench seeking an extension of time for deposit with the Prothonotary & Senior Master. The Notice of Motion is stated to be listed in the course of next week.

5. Till then, the learned Counsel for the Defendants states that the Affidavit in Reply will be filed to the Notice of Motion in which disclosure of status of the properties mentioned Exh.A to the Notice of Motion as well as the property being row house in Vashi admeasuring 200 sq.mtrs. Situated at Plot No. 69, Section 8, Lane G, Cashi, Navi Mumbai, which is stated to be sold and it will be stated that the sale proceeds will be deposited with the judgment-creditor. He has also submitted that in the Affidavit in Reply of the Notice of Motion disclosure will be made as regards other properties of the Defendants.

6. Defendants are accordingly, directed to file their Affidavit

of disclosure within a period of one week from the date of this order.

7. In view of this order, the Commercial Notice of Motion No. 1860 of 2019 which seeks disclosure of the assets of the Defendants as well as injunction order which is also sought herein does not survive and is accordingly, disposed of.

8. List the Commercial Notice of Motion No. 1859 of 2019 on 17th October 2019 on the supplementary board.

[R.I. CHAGLA J.]