

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY AND ORIGINAL CIVIL JURISDICTION
COMMERCIAL NOTICE OF MOTION (L) NO.1208 OF 2019
IN
COMMERCIAL SUIT NO.1447 OF 2019**

ICICI Bank Ltd.

..Plaintiff

Vs.

State Bank of India & Ors

..Defendants

WITH
COMMERCIAL NOTICE OF MOTION NO.2453 OF 2018
IN
COMMERCIAL SUIT NO.1447 OF 2019

Mr. Vikram Nankani, Senior Advocate a/w Ms Manini Bharati, Mr. Siddharath Ranade and Ms Salona Mittal I/b Trilegal for Plaintiff/Applicant
Mr. S. B. Rao a/w Ms Benita Kapadia I/b India Law LLP for Defendant Nos.1 and 2

Ms Aradhana Latne for Defendant No.3

Mr. Rakesh L. Singh I/b M. V. Kini and Co. for Defendant No.4

Mr. Gaurav Joshi, Senior Advocate a/w Mr. Vivek Shetty and Ms Apoorva Gupta I/b AZB and partners for Defendant No.5

Mr. Prateek Seksaria a/w Ms Meghna Rajadhyaksha, Ms Radhika Indapurkar I/b Shardul Amarchand Mangaldas and Co. for Applicant in CHSCD/562/2019

CORAM : K.R.SHRIRAM, J.

DATE : 3rd JUNE 2019

P.C.:

1 On 10th May 2019, the following order came to be passed:-

“Heard the learned counsel for the parties.

Considering the nature of the dispute, it is imperative that the defendant no.4 – National Highways Authority of India makes a categorical statement about the compliance in terms of the order dated 18th February 2019.

Post the matter on 29th May 2019.

All contentions of the parties are kept open.”

2 On 29th May 2019, the following order came to be passed:-

“1. The learned counsel for National Highway Authority of India (NHAI) has placed on record two communications dated 17.05.2019 addressed to the State Bank of India and another communication dated 23.05.2019 addressed to the Project Director. The NHAI seeks sometime to file response in terms of order dated 10th May 2019 directing compliance of the order dated 18.02.2019.

2. Let the response be filed on or before 03.06.2019. Place Notice of Motion No.1208 of 2019 along with Notice of Motion No.2453 of 2018. The Defendant Nos.1 and 2 are also at liberty to file reply.”

3 Even today, no affidavit is filed by NHAI though they had time from 10th May 2019. Mr. Singh appearing for NHAI is seeking further time on the ground that the affidavit draft is ready but it has to be approved by the General Manager, Finance, based in Delhi. This certainly cannot be an excuse for not complying with court's direction.

4 Be that as it may, I am standing over the matter to 10th June 2019 and the affidavit shall be filed and copy served on all the other parties by 3.00 p.m. on 6th June 2019. For today's adjournment, NHAI to pay, before the next date, donation of Rs.50,000/- to Maharashtra Legal Aid Services, Mumbai. Defendant Nos.1 and 2 were granted liberty to file reply on or before 3rd June 2019. No reply has been filed. When the court asked Mr. Rao whether defendant nos.1 and 2 wish to file any reply, the response was silence. Therefore, defendant nos.1 and 2 will not be permitted to file any affidavit in reply.

5 All office objections in the notice of motion to be removed within two weeks from today.

6 There is also a Chamber Summons No.562 of 2019, not listed today, taken out by Lanco Infratech Ltd, holding of company of defendant no.3. The application is to allow impleadment of applicant as defendant to the suit and direct plaintiff to amend the plaint suitably. Mr. Nankani has no objection. Therefore, by consent this chamber summons is taken up for hearing though not listed.

7 Chamber summons is allowed in terms of prayer clauses (a) and (b). Chamber summons accordingly stands disposed.

8 Mr. Seksaria waives service of writ of summons.

9 Stand over to 10th June 2019.

(K.R. SHRIRAM, J.)