Shephali

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
IN ITS COMMERCIAL DIVISION
COMMERCIAL SUMMARY SUIT NO. 286 OF 2016
WITH
LEAVE PETITION NO. 82 OF 2016

Sociedade De Fomento Industrial Pvt Ltd …Plaintiffs
Versus
Richway Mining Pvt Ltd …Defendants

Mr Vikram Deshmukh, *with Ashraf Mohammed & Linette Rodrigues, i/b Vidul Legal, for the Plaintiffs.*

CORAM: G.S. PATEL, J
DATED: 8th January 2019

PC:-

1. The Plaintiffs in this Summary Suit under Order XXXVII Rule 3 of the Code of Civil Procedure 1908 seeks an *ex parte* decree against the Defendant and disposal as an undefended Suit under Rule 89 of the Bombay High Court (Original Side) Rules.

2. The claim is for an amount of Rs. 7.5 crores with interest at 6% per annum. The Defendant approached the Plaintiff on 15th February 2011 for financial assistance. The parties entered into an agreement to provide this finance on 30th March 2011. The

Defendant then executed a promissory note in favour of the Defendant. The Defendant confirmed the balance due by its letter of 30th April 2014. Demands for payment including legal demands met with no response. Hence, the present suit.

3. Ms Mukta Vernekar, the Dy General Manager (Accounts) of the Plaintiff is present in Court. She has filed an Evidence Affdiavit along with a certificate under Section 65B of the Indian Evidence Act and an Affidavit of Documents and a compilation. The Plaintiff's documents are marked **Exhibit "P1" (collectively)** in evidence. The originals, if any will be returned to the Plaintiffs under Rule 306 of the Bombay High Court (Original Side) Rules.

4. In view of what is stated above, the Plaintiffs are entitled to a decree as prayed in the amount of Rs. 7.5 crores with simple interest at 6% per annum from 30th March 2012 until payment or realization.

5. It is only to be noted that as regards the bar of limitation, this will be saved on account of the periodic balance confirmations issued, copies of which are also in the compilation.

6. This being a commercial suit, the Plaintiffs are entitled as a matter of course to a decree of costs under the amended Section 35 of the Code of Civil Procedure 1908. The plaint itself reflects that the Plaintiffs have paid an amount of Rs 3 lakhs as court fee. The costs to be awarded are to be reasonable having regard to the circumstances of the case. I believe an additional amount of Rs. 3 lakhs would be sufficient. There will therefore be a decree, though

without interest, of costs in the aggregate amount of Rs. 6 lakhs in favour of the Plaintiffs against the Defendant.

7. The Suit is disposed of in these terms.

8. Decree to be drawn up expeditiously.

(G. S. PATEL, J)