

Arun

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
IN ITS COMMERCIAL DIVISION
COMM SUMMARY SUIT NO. 673 OF 2018**

Godrej Industries Ltd	...Plaintiff
<i>Versus</i>	
Bhuta International & Ors	...Defendants

**Mr Zarir Bharucha, i/b Bimal Rajasekhar with Mr Anisha
Bhattacharya & Ms Tanya Singh, for the Plaintiff.**

**CORAM: G.S. PATEL, J
DATED: 11th February 2019**

PC:-

1. On 22nd October 2018, AK Menon J disposed of the Summons for Judgment. He held *inter alia* that there was no merit to the defence having considered the Affidavits in Reply. He afforded the Defendants a final opportunity and directed that a deposit be made of Rs.1.75 crores in four weeks. In default the Plaintiff was at liberty to apply for a decree.

2. Mr Bharucha for the Plaintiff tenders a certificate of non-deposit confirming that nothing was deposited by the Defendants. The Plaintiffs are thus entitled to a decree under Order XXXVII Rule 3 of the Code of Civil Procedure 1908 (“CPC”).

3. The facts have been sufficiently set out in the order of 22nd October 2018. The suit will have to be decreed. There will be a decree jointly and severally against the Defendants in the amount of Rs. 1,76,79,021/- with interest at the rate of 18% per annum from their respective due dates as claimed in the particulars of claim and further interest at 18% per annum from the date of the suit until payment or realisation.
4. This being a Commercial Suit, the Plaintiff is entitled to an order of costs in view of the provisions of Section 35 of the CPC as amended by the Commercial Courts Act. The Plaintiff has paid the maximum *ad valorem* Court fees of Rs. 3 lakhs on the Plaint. The Plaintiff is entitled to a refund.
5. In my view, having regard to the fact that no costs were awarded at the stage of Summons for Judgment in view of an order of deposit being made, an amount of Rs. 7.5 lakhs as litigation expenses inclusive of Court fees is reasonable.
6. If the Plaintiff applies for a refund of Court fees, this decree for costs will stand reduced accordingly. The decree for costs will be jointly and severally against all Defendants but will not carry interest.
7. Decree to be drawn expeditiously.
8. Liberty to the Plaintiff to move in execution without awaiting sealing of the decree.

9. The suit is disposed of in these terms.

(G. S. PATEL, J)