

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY AND ORIGINAL CIVIL JURISDICTION
IN ITS COMMERCIAL DIVISION**

**COMMERCIAL CHAMBER SUMMONS NO.988 OF 2018
IN
COMMERCIAL SUIT NO.445 OF 2017**

Baader Schulz Laboratories Applicant/Plaintiff

Vs.

Piramal Enterprises Limited Defendant

Mr. Bharat Gandhi i/b. Mr. Swapnil V. Newaskar for applicant/plaintiff.
Mr. Firdosh Pooniwalla a/w. Ms. Melanie D'souza, Mr. Rishit Badiani and
Ms. Swati Jain i/b. M/s. A.S. Dayal and Associates for defendant.

CORAM : K.R.SHRIRAM, J.

DATE : 18th MARCH 2019

P.C.:

1 This chamber summons is taken out for judgment in the suit under Order VIII Rule 5 (2) of the Code of Civil Procedure since defendant has forfeited its right to file written statement.

2 The suit is for unliquidated damages. The heads of claim are as under :

i) Pecuniary damages

a) Loss of earning for the period under consideration Rs.36,33,000/- (Rupees Thirty Six Lac Thirty Three Thousand only).

b) Loss of future earning capacity Rs.3,63,30,000/- (Rupees Three Crore Sixty Three Lacs Thirty Thousand only).

c) Loss due to legal cost incurred Rs.10,00,000/- (Rupees Ten Lac only).

d) Additional and incidental expenses Rs.5,00,000/- (Rupees Five Lac only).

ii) Non pecuniary loss

a) Damage to reputation Rs.36,33,000/- (Rupees Thirty Six Lac Thirty Three Thousand only).

b) Mental suffering and agony Rs.36,33,000/- (Rupees Thirty Six Lac Thirty Three Thousand only).

c) Injury to feelings and inconvenience Rs.36,33,000/- (Rupees Thirty Six Lac Thirty Three Thousand only).

d) Aggravated damages Rs.36,33,000/- (Rupees Thirty Six Lac Thirty Three Thousand only)

e) Exemplary damages for breach of trust Rs.36,33,000/- (Rupees Thirty Six Lac Thirty Three Thousand only)

f) Malicious proceedings Rs.36,33,000/- (Rupees Thirty Six Lac Thirty Three Thousand only)

Total pecuniary and non pecuniary damages accounting for Rs.6,32,61,000/- (Rupees Six Crores Thirty Two Lacs Sixty One Thousand only).

3 Prayer clause – (a) of the plaint is for seeking decree in the sum of Rs.6,32,61,000/- and prayer clause – (b) is for interest at 18% p.a.

4 Considering the nature of the claim, in my view, oral evidence cannot be dispensed with.

5 In the circumstances, chamber summons dismissed with no order as to costs.

6 Plaintiff to give inspection of all documents to defendant within two weeks from today. Within one week, defendant to give statement of admission and denial with reasons for denial. If inspection is not given, then plaintiff will not be permitted to rely on such document and if statement of

admission and denial with reasons for denial is not given, existence of plaintiff's documents shall be deemed to have been admitted by defendant.

7 Plaintiff to file its list of witnesses, affidavit in lieu of examination in chief of the first witness together with compilation of documents and serve a copy thereof upon defendant by 26th April 2019.

8 Stand over to 3rd May 2019 for marking of documents/ recording of evidence on which date plaintiff's first witness shall remain present in Court.

9 I have to clarify that just because defendant has forfeited its right to file written statement does not mean that they cannot cross examine plaintiff's witness and they can also confront plaintiff's witness with any document.

(K.R. SHRIRAM, J.)