

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

IN ITS COMMERCIAL DIVISION

**COMMERCIAL SUMMARY SUIT (LODG.) NO. 1379 OF 2019
ALONG WITH
INTERIM APPLICATION NO. 1 OF 2019
IN
COMMERCIAL SUMMARY SUIT (LODG.) NO. 1379 OF 2019**

Axis Trustee Services Limited

.. Plaintiff

Vs.

Hiren Patel & Anr.

.. Defendants

Mr. Rishabh Jogani and Mr. Jugal Kanani i/b Shardul Amarchand Mangaldas and Co. for applicant in IA/1/2019.

None for defendants.

CORAM : N.J. JAMADAR, J.

DATE : 14TH FEBRUARY 2020

P.C.

INTERIM APPLICATION NO. 1 OF 2019

1. Heard the learned counsel for the applicant.
2. This application is preferred seeking leave under the provisions of Order II Rule 2(3) of the Code of Civil Procedure, 1908 ('the Code'). The plaintiff has instituted the summary suit on the basis of the demand promissory note dated 18-02-2015.

3. The plaintiff avers that there is a jural relationship between the plaintiff and the defendant in the capacity of the Debenture Trustee on the basis of Debenture Trust Deed and Agreements executed in that regard.

4. The plaintiff has made averments in paragraph No.27 of the plaint. In the instant application also, the plaintiff has assigned reasons in justification of grant of leave.

5. The learned counsel for the plaintiff submits that by way of abundant caution, the plaintiff desires to reserve the right to sue the defendants in respect of the cause of action which may arise in view of the Deed of Guarantee and Debenture Trust Deed and the plaintiff restricts the instant claim to enforce the payment under the promissory note which was drawn by the defendant in favour of the plaintiff.

6. The instant suit is based on the cause of action for non-payment of the amount covered by the demand promissory note. The right which accrue to the plaintiff as a Debenture Trustee can be independently enforced by the plaintiff.

7. Hence, the interim application is allowed in terms of prayer clause (a).
8. The interim application stands disposed of.
9. The suit be listed on 27th March 2020.

[N.J. JAMADAR, J.]