

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
COMMERCIAL SUMMARY SUIT NO. 16 OF 2021

National Petrol Company ...Plaintiff

Versus

Apt Infratech Solutions LLP and 3 Ors. ...Defendants

Nishigandh N. Patil - Advocate for the Plaintiff.

CORAM : DAMA SESHADRI NAIDU, J.

DATE : 05th JULY 2021.

P.C. :

The plaintiff is a Partnership firm, represented by one of its partners. The 1st defendant is a Limited Liability Partnership firm; the 2nd and the 3rd defendants are its partners.

2. The plaintiff claims to have sold motor vehicle fuel and other petro-products to the defendants on a 'running-account basis', for about two years. In the end, the defendants have defaulted on the fuel price. Quantified, the debt stood at Rs. 1,72,53,395/- as on 30.09.2019.

3. To have that amount realized, the plaintiff sent Exh. 'C' demand notice, dated 07.08.2020. Having received that, the defendants did not respond. So, to realise that debt based on the accounts, the plaintiff has filed this Summary Suit.

4. As the record reveals, though the suit summonses had been served on the defendants, they did not choose to appear. Nor had they participated earlier in the pre-litigation mediation. On 28.06.2021, this Court directed the Registry to list the matter today. It has also further recorded, “By then if the defendants fail to enter their appearance, this Court may proceed further with the matter by setting the defendants ex-parte”.

5. Today too, the defendants have not entered their appearance. So, they are set ex parte.

6. Indeed, it is a Summary Suit under Order 37 of CPC. Rule 2 (3) of Order 37 reads thus:

“The defendant shall not defend the suit referred to in sub-rule (1) unless he enters an appearance and in default of his entering an appearance the allegations in the plaint shall be deemed to be admitted and the plaintiff shall be entitled to a decree for any sum, not exceeding the sum mentioned in the summons, together with interest at the rate specified, if any, up to the date of the decree and such sum for costs as may be determined by the High Court from time to time by rules made in that behalf and such decree may be executed forthwith.”

7. As is evident from the above statutory extract, after suit summons has been served on the defendant, he ought to appear before the Court. On his default, “the allegations in the plaint shall be deemed to be admitted and the plaintiff shall be entitled to a decree for the sum not exceeding the sum mentioned in the summons together with interest”.

8. Under these circumstances, I have perused the record, including Exh. 'A1' to 'A24' and Exh. 'D'. The pleadings and the documents show that the defendants owe money to the plaintiff. That apart, the defendants, with their absence, are deemed to have admitted the plaint allegations. So, they have become averments requiring no further proof.

As a result, the Court decrees the Suit for Rs. 1,88,06,200 (Rupees One Crore Eighty-Eight Lakh Six Thousand and Two hundred only) along with interest at the rate of 9 % per annum, till the realization of the decretal amount.

Thus, the Commercial Summary Suit No. 16 of 2021 stands decreed as prayed for.

The refund of Court fee is to be as per the Rules.

[DAMA SESHADRI NAIDU, J.]