

Shephali

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
IN ITS COMMERCIAL DIVISION
INTERIM APPLICATION (L) NO. 374 OF 2021
IN
COMMERCIAL SUIT NO. 556 OF 2018
AND
NOTICE OF MOTION NO. 2041 OF 2019
(NOT ON BOARD)**

Asset Reconstruction Company (I) Ltd ...Plaintiff
Versus
Rosina Mehra & Ors ...Defendants

Ms Naira Jejeebhoy, with Anish Karande, i/b Dastur Kalambi & Associates, for the Plaintiff in Suit.
Mr Nikhil Rajani, i/b V Deshpande & Co, for the Applicant/ Defendant No. 9 in IAL/374/2021.
Mr Mohan RP Rao, for Defendant No.1.
Mr Karshil Shah, with Varun Shah, i/b Kanga & Co, for Defendants Nos. 8 and 11.

SHEPHALI
SANJAY
MORMARE

CORAM: G.S. PATEL, J
DATED: 25th October 2021

PC:-

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by SHEPHALI
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1. This is an application by Defendant No. 9. It seeks the following prayers:

“a. that this Hon’ble Court be pleased to accord its permission and permit the Applicant herein to pay to the Defendant No. 6 an amount of Rs. 4 Crores from the sale proceeds of R. 10.01 Crores received (after debiting an amount of TDS of 20% of sale value along with surcharge, cesses etc.) in full and final settlement of the claim of the Defendant No. 6 over the subject flat.

b. that this Hon’ble Court be pleased to order and direct the Defendant No. 6 to relinquished all its right, title and interest over the subject flat and to handover possession thereof to the Applicant against receipt of Rs. 4 Crores from the sale proceeds of Rs. 10.01 Crores received (after debiting an amount of TDS of 20% of sale value along with surcharge, cesses etc.) in full and final settlement of its claim over the subject flat;

2. There is a long history to this amount of Rs. 4 crores. This was a refundable security deposit paid by Defendant No. 6 to the 1st Defendant, who has since absconded and siphoned away the entire amount. If Defendant No. 9 pays off the claim of Defendant No. 6, this is to the benefit of the Plaintiff, the 1st Defendant’s estranged spouse. The Plaintiff has no objection to this. HUL, Defendant No.6, is represented online.

3. The IA is made absolute in terms of prayer clauses (a) and (b).

4. This amount is paid to the HUL in the full and final settlement of all its claims in this regard, irrespective of the Tribunal in which any claim is pending or has been filed.

5. If ARCIL has any further claim, this will be adjudicated on its own merits when the Plaintiff's IA is taken up whether for hearing or settlement.

6. The 6th Defendant's separate Notice of Motion No. 2041 of 2019 is also disposed of in these terms.

7. The learned Advocate for the 1st Defendant states that his client is abroad. The Commercial Suit has been finally numbered. Accordingly, the Advocate for the 1st Defendant expressly consents to a waiver of the service of the Writ of Summons on the 1st Defendant. Copies of the Plaint and the amended plaint have already been furnished to the 1st Defendant. As a courtesy, a copy of the amended Plaint will be served on the 1st Defendant's Advocate.

8. Time for filing the Written Statement will run from today. The Written Statement will have to be entered in time. It will not be allowed to affirmed overseas. It has to be verified before an officer of this Court.

9. All concerned will act on production of a digitally signed copy of this order.

(G. S. PATEL, J)