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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

**APPEAL FROM ORDER NO. 878 OF 2022
WITH
INTERIM APPLICATION NO. 18000 OF 2022**

Indiabulls Commercial Credit Ltd. & Anr. ..Appellants
Vs.
Ashok Investor Trust Ltd. & Ors. ...Respondents

**AND
APPEAL FROM ORDER NO. 879 OF 2022
WITH
INTERIM APPLICATION NO. 18003 OF 2022**

Indiabulls Commercial Credit Ltd. & Anr. ..Appellants
Vs.
Priya Mercantile and Trading Pvt. Ltd. & Ors. ...Respondents

Mr. Sharan Jagtiani, Senior Advocate with Mr. Siddharth Joshi, Ms. Krushi Barfiwala, Ms. Rima Desai and Mr. Divyanshu Gupta i/b. Parinam Law Associates for Appellants/Applicants.
Mr. A.V. Anturkar, Senior Advocate i/b. Mr. A. M. Saraogi for Respondent No.1/Plaintiff.

**CORAM : M. S. KARNIK, J.
DATE : SEPTEMBER 15, 2022.**

P.C.:

1. Both the appeals are heard together finally by consent.
2. Heard Shri. Jagtiani, learned senior advocate for the appellants and Mr. Anturkar, learned senior advocate for respondent no.1/plaintiff.
3. The order impugned is an ex-parte order dated 30 August, 2022. Without deliberating on the detailed submissions made by learned senior advocate in the challenge to the impugned order, also after

hearing learned senior advocate Shri. Anturkar, it is noticed that on the date when the impugned order was passed, the appellants were not in a position to represent their side of the case. Learned senior advocate for the appellants submitted that a large sum of money is involved. Learned senior advocate Mr. Jagtiani submitted that suppressing all material documents, the ex-parte order has been obtained. It is submitted that had an opportunity being given to the appellants to be heard, the appellants could have pointed out the alleged falsity in the plea raised by the plaintiff.

4. I am informed that the matter is listed today at 02.30 p.m. before the trial Court for considering continuation of the ad-interim order. As the matter is being heard today for continuation or otherwise of the order, in my opinion, the following order will meet the ends of justice:-

ORDER

i. The trial Court may consider the question of grant of ad-interim relief or otherwise in Suit No.1956 of 2022 afresh after hearing the parties, without being influenced by the observations made in the impugned order dated 30 August, 2022.

ii. It is open for the appellants to produce all the necessary documents in support of their plea opposing the ad-interim reliefs prayed for by the plaintiff.

iii. It is open for the appellants to make an appropriate application, if they so desire to the effect that the City Civil Court does not have jurisdiction in view of the contention of the learned senior advocate that the parties are governed by the arbitration clause in the agreement, which shall be considered on its own merits by the trial Court and in accordance with law.

iv. Needless to mention, it is open for the appellants to raise the

point of jurisdiction of the City Civil Court, which objection may be considered by the trial Court on its own merits.

v. The appellants are permitted to rely on the documents annexed to the appeal memos and the interim applications before the trial Court.

vi. Since the ad-interim order by virtue of the impugned order is operative till today, a fresh request for grant of ad-interim relief or otherwise made on behalf of the plaintiff may be considered today itself on its own merits and in accordance with law uninfluenced by the observations in the impugned order.

vii. The appeals are disposed of accordingly. Both the interim applications would not survive. They are accordingly disposed of.

[M.S. KARNIK, J.]