IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

SUMMONS FOR JUDGMENT NO. 91 OF 2012

IN

COMMERCIAL SUMMARY SUIT NO. 6 OF 2011

The State Trading Corporation of India Ltd. ... Plaintiff

vs.

Masumi Overseas Pvt. Ltd. and 2 Ors. ... Defendants

Ms. L. M. Jenkins for the Plaintiff.
Mr. Sanjeev Rawat i/b. Mr. D. V. Sutar for the Defendants.

CORAM : A. K. MENON, J.
DATED : 8th JUNE, 2022

P.C. :

1. For some strange reason the Summons for Judgment has been pending for 10 years. Learned counsel for the plaintiff states that the defendants are responsible for having taken out many applications in the suit. Prima facie that is for hearing the Summons for Judgment. Summons for judgment is taken up for hearing forthwith.

2. Having heard the learned counsel for the parties it appears that the suit is filed against a limited company and two of its directors. The cause of action pleaded in the plaint is on the basis of an agreement dated 15th December, 2006 as between the plaintiff and defendant no.1.. That

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agreement provided for supply of jewellery through the plaintiff to certain foreign buyers and on basis of which exports orders were to be executed. Defendant no. 1 had apparently sought Post Shipment Finance Facility from the plaintiff bankers i.e. Standard Chartered Bank as set out in paragraph 8. The bank is not party to the suit. These are aspects which are triable.

3. Moreover the suit seeks to combine different causes of action against defendant no 1 and cause of action against defendant nos. 2 and 3 under agreement of personal guarantee which according to the learned counsel for the plaintiff has invoked. In the plaint it is disclosed that the foreign buyers had not paid the amount due and payable to the plaintiff within time and it sought extension of time from the plaintiff and the plaintiff has itself agreed to such extension.

4. In my view there is no question of granting conditional leave or granting a decree in the set of circumstances that is set out in the plaint. All the plaintiffs contentions aforesaid raise triable issues. Accordingly, I pass the following order :

(i) Defendants are granted unconditional leave to defend the suit. Written statement(s) to be filed within eight weeks from today.

(ii) If written statement(s) are not filed, list the suit for ex-parte decreee.

(iii) Summons for Judgment is disposed in the above terms.

(A. K. MENON, J.)