

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

NOTICE OF MOTION NO. 1637 OF 2018

IN

COMMERCIAL SUIT NO. 6 OF 2018

Cherag Balsara ... Plaintiff

vs.

Ramnik Mohanlal Chawda and Ors. ... Defendants

Mr. Akshay Patil i/b. Mr. Jayesh R. Vyas for the Plaintiff.

Ms. Pooja Shah i/b. Ms. Rama Subramanian for Defendant nos. 2, 3 and 4.

CORAM : A. K. MENON, J.

DATED : 13th JANUARY, 2022

[THROUGH VIDEO CONFERENCE]

P.C. :

1. By order dated 10th April, 2019 passed in the above notice of motion the plaintiffs were directed to hold funds in escrow, which arrangement was not to be disturbed without prior leave of the court. This order has been continued. The suit has now come up for directions. In the circumstances I am of the view that the notice of motion need not be kept pending.

2. The suit is a Commercial Suit claiming a sum of Rs.123.05 crores. Summons is said to have been served on or about 23rd February, 2019 on defendant nos. 2 to 4. Defendant no. 1 is said to have expired. Defendant nos. 2 and 3 are said to be the only legal heirs of defendant no. 1. On 4th April,

2019 the court observed that a formal order of deletion of defendant no. 1 will be passed at a later date, that order is yet to be passed.

3. Defendant no. 4 is a limited company which is also seen to have been served with the writ of summons. An affidavit of service by the bailiff of Sheriff of Mumbai dated 26th March, 2019 records that service upon defendant no. 4 is complete. Acknowledgments of the postal department are also annexed. These defendants have since entered appearance through their Advocates on 6th June, 2019.

4. On behalf of defendant nos. 2 to 4 Ms. Shah submits that as per her instructions the court had permitted the affidavit in reply filed by the said defendant to be treated as the written statement on behalf of defendant nos. 2 to 4. She however seeks sometime to obtain confirmation of this.

5 In view thereof I pass the following order :

- (i). The order dated 10th April, 2019 in the above Notice of Motion shall continue as an interim order pending disposal of the suit.
- (ii) Notice of Motion no. 1637 of 2018 is disposed in the above terms.
- (iii) The name of defendant no. 1 shall be struck out by an amendment to be carried out by the plaintiff. Let this be done before 20th January, 2022.
- (iv) List the suit for directions on 20th January, 2022.

(A. K. MENON, J.)