

Sharayu Khot.

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

INTERIM APPLICATION NO. 1811 OF 2019

IN

COMMERCIAL SUIT NO. 30 OF 2018

Vrushali Patil & Ors.

...Applicants/
Plaintiffs

Versus

MD Devcon Private Limited & Ors.

...Defendants

Mr. Sushant Arora a/w Ms. Ankita Karmokar, Ms. Vaishnavi Adhav
i/by LR & Associates for the Plaintiffs.

CORAM : R.I. CHAGLA J

DATE : 20 July 2022

ORDER :

1. By this Interim Application, the Applicant is seeking setting aside the impugned order dated 28th August 2019 of the Taxing Master, High Court, Bombay by which each of the Plaintiffs are required to pay maximum Court fees of Rs. 3,00,000/- as flat value exceeds to Rs. 2.5 Crores. In the captioned Suit, there are 167 Plaintiffs and Court fees payable has been determined at Rs.

SHARAYU
PANDURANG
KHOT

Digitally signed
by SHARAYU
PANDURANG
KHOT
Date:
2022.07.25
15:13:27 +0530

5,01,00,000/-. It is noted that at the time of filing of the Suit, the Court fees of Rs. 3,00,000/- has been paid. Therefore, balance Rs. 4,98,00,000/- is required to be paid in the captioned matter.

2. This order of the Taxing Master is contrary to the settled law including the decision in **Maldar Barrels Private Ltd. Vs. Pearson Drums and Barrels Pvt. Ltd.**¹, where this Court was considering the issue of payment of Court fees under the Maharashtra Court Fees Act, 1959 (“**the Act**”). This Court followed the decision of this Court in **Syndicate Bank Vs. M/s. S.S. Printers & Ors.**² and held that the maximum Court fees leviable on Complaint or Memorandum of Appeal is Rs. 3,00,000/- irrespective of whether such Complaint or Memorandum of Appeal contains one or more distinct subjects. Merely because the Suit may have been filed on several invoices, this cannot be construed as distinct subjects for payment of Court fees on each invoices.

3. The present Suit is on stronger footing, considering that the Suit has been filed in a representative capacity of flat purchasers, 167 in number. The leave under Order I Rule 8 of the Code of Civil

1 Commercial Summary Suit (L) 6044/22 Order dated 13th July 2022

2 1995(2) Mh.L.J. 198

Procedure, 1908 had been granted by this Court permitting such Suit to be filed in representative capacity.

4. Considering the settled law including the decision of this Court in **Maldar Barrels Private Ltd.** (supra), the maximum Court fees leviable on the Plaint under the Act is Rs. 3,00,000/- which is provided in Article 1 of Schedule 1 of the Act. Section 18 of the Act, which cannot be read contrary to Article 1 of Schedule 1.

5. In view thereof, there is no merit in the order passed by the Taxing Master of this Court fixing the Court fees of Rs. 5,01,00,000/-. Hence, this order requires to be set aside. Accordingly, the following order is passed:-

(i) Impugned order dated 28th August 2019 passed by the Taxing Master, High Court, Bombay together with impugned Reports dated 31st March 2019 and 27th July 2019 are set aside.

(ii) In view of the maximum Court fees of Rs. 3,00,000/- having been paid and there being no further

objections raised by the Registry, the present Suit shall
be numbered.

(iii) In view thereof, Interim Application is disposed of.

[R.I. CHAGLA J.]