

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

COMMERCIAL SUMMARY SUIT NO. 385 OF 2016

WITH

SUMMONS FOR JUDGMENT NO. 90 OF 2017

IFCI Factors Ltd. ... Plaintiff
vs.
Glodyne Ventures and Holding ... Defendants
Private Limited through
Official Liquidator High Court, Bombay

Ms. Anubha Rastogi for the Plaintiff.

Mr. Jehangir Jejeebhoy for the Official Liquidator of Defendant no. 1.

Mr. Siddha Pamecha i/b. Mr. Thakore Jariwala for Defendant nos. 2 and 3.

CORAM : A. K. MENON, J.

DATED : 8th JUNE, 2022

P.C. :

1. By an order dated 21st August, 2018 Summons for Judgment No. 90 of 2017 was disposed. Conditional leave was granted to defendant nos. 2 and 3 to deposit a sum of Rs. 9 crores within six weeks of that order. The deposit was to be made jointly and/or severally by defendant nos. 2 and 3. It is now seen that the deposit has not been made. The plaintiff has obtained a certificate of non deposit dated 9th April, 2021. Today the learned counsel for the applicant seeks a decree in terms of the suit.

2. On behalf of defendant nos. 2 and 3 the learned counsel states that appeal has been filed against an order of 2018 however it is evident there is no stay of proceedings since the Appeal is said to have been dismissed for default. Accordingly suit is taken up for disposal .

3. The Suit claims a sum of Rs.25,57,21,139/- along with interest thereon on the basis of a Corporate Loan Agreement dated 24th December, 2010. The cause of action is stated to have arisen on 24th December, 2010 upon execution of the agreement and thereafter a Joint Memorandum of Understanding was entered between parties on 28th August, 2012. Part payments have been made and the last loan payment made by defendants to the plaintiffs on 10th January, 2013 .

4. Furthermore it is stated that the plaintiff issued a notice of demand dated 6th May, 2015. As a result of non-payment, the plaintiff invoked the guarantee. issued by defendant nos. 2 and 3. The guarantors have failed and neglected to honour their obligations under the guarantee. Today the plaintiff has placed on record the original of corporate loan agreement, undertaking, promissory note signed by the defendant no. 1 and deed of guarantee signed by both defendant nos. 2 and 3. In view of the failure to deposit the amounts the plaintiff is now entitled to a decree.

5. Accordingly I pass the following order :

- (i) Suit is decreed in terms of prayer clause (a) along with interest in terms of prayer clause (a) except that the rate of interest payable from the date of the suit to payment of realisation shall be computed at 6% from date of suit.
- (ii) Defendant nos. 2 and 3 shall also pay costs of the suit
- (iii) Suit is disposed in the above terms.
- (iv) Refund, if any, as per rules.

(A. K. MENON, J.)