K.S. Jadhav

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

INTERIM APPLICATION NO.495 OF 2023

IN

SUIT (L) NO.5980 OF 2020

Sajawant Consultants Bombay Pvt. Ltd., **…Applicant/ Original Plaintiff**

Versus

Invent Assets Securitization & Reconstruction Pvt. Ltd. & Ors., **…Defendants**

Mr. Alizain S. Patel i/b Mr. Samshed Ansari, Advocate for Applicant/Plaintiff.

CORAM : R.I. CHAGLA J.

DATE : 27TH FEBRUARY, 2023.

ORDER :

1. By this Interim Application, the Applicant/Original Plaintiff has sought restoration of the Suit (L) No.5980 of 2020 which came to be rejected on account of failure to remove office objection which was for payment of deficit Court fees under Rule 986 of the Bombay High Court (Original Side) Rules, 1980.

2. The Applicant has stated that upon filing of the above Suit, office objections were raised and Applicant had removed all the office

objections save and except deficit Court fees. The Applicant having paid the Court fees of Rs.1,50,000/- was the belief that these were the Court fees applicable in the case.

3. The Applicant had circulated the matter before Prothonotary and Senior Master of this Court on 6th January, 2022 and by order bearing the same date, the Prothonotary and Senior Master of this Court had referred the captioned matter to the Taxing Master for adjudication of proper Court fees. Thereafter, the Taxing Master had by order dated 10th June, 2022 considered that there was a separate cause of action arising out of the Agreement challenged and that the Plaintiff will have to value the prayer separately under Section 6(h)(a) of Bombay Court Fees Act. The order of the Taxing Master is annexed at Exhibit-B to the Interim Application.

4. The Applicant has thereafter stated that the authorized Representative/Director was out of town and accordingly the office objection raised by the department in respect of the deficit Court fees could not be removed within the time permitted by Notice dated 15th September, 2022 issued by this Court. Accordingly, the Suit came to be rejected.

5. Having considered the averments in the Interim Application as well as taking note of the fact that the only objection which remains is payment of deficit Court fees as determined by the Taxing Master by order dated 10th June, 2022, as well as fact that the Applicant is willing to pay the deficit Court fees, the relief sought for in the Interim Application is granted. Hence, the following order is passed :

(i) The Suit (L) No.5980 of 2020 is restored to file by extending the time which was granted by common Notice dated 15th September, 2022 issued by Prothonotary and Senior Master of this Court by a further period of three weeks from the date of this order.

(ii) It is made clear that in the event, the office objection is not removed, the above Suit shall stand rejected without further reference to the Court.

(iii) Interim Application is accordingly disposed of.

[R.I. CHAGLA J.]