

Amberkar

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 10067 OF 2023

Shreeman Developers & Finance Pvt Ltd & Ors.

Petitioners

•• (Org. Defendants)

Versus

Suchhanda Chatterjee

Respondent

•• (Org. Plaintiff)

.....

- Mr. Jagdish Jayale a/w Mr. Jayesh Jayale for Petitioners
- Mr. Dharmesh S. Jain for Respondent

.....

CORAM : MILIND N. JADHAV, J.

DATE : MARCH 26, 2024

P. C.:

1. Mentioned at the time of rising.
2. Heard Mr. Jayale, learned Advocate for Petitioners and Mr. Jain, learned Advocate for Respondent. By consent of both the learned Advocates, present Writ Petition is taken up for final hearing.
3. Present Writ Petition takes exception to the judgment & order dated 19.04.2023 passed by the learned City Civil Court at Dindoshi (Borivali Division), Goregaon, Mumbai in Summons for Judgment No. 141 of 2018.
4. Both the learned Advocates have made their respective submissions. Without opining on merits of the matter and after hearing learned Advocates, I am of the opinion that Summary Suit filed in the year 2018 needs to be adjudicated and decided as

expeditiously as possible and strictly in accordance with law. Merely because the order of deposit has been made, the Suit has remained pending since long. I have impressed upon Mr. Jayale, learned Advocate for Petitioners who are Defendants before the learned Trial Court that if they are ready and willing to make a deposit of a substantive amount, this Court shall consider their grievance. After taking instructions from Defendant No. 2 who is the director of Defendant No. 1 and present in Court, he makes a statement that Defendants shall deposit an amount of Rs. 8,00,000/- in two installments within a period of two months from today i.e. first installment of Rs. 4,00,000/- within four weeks from today and the balance amount of Rs. 4,00,000/- to be deposited within four weeks thereafter. The said statement made by Defendant No. 2 through Mr. Jayale is taken as an undertaking given to this Court. Undertaking on affidavit shall be filed by Defendant Nos. 1 and 2 jointly in this Court to the above effect within one week from today.

5. In view of the above statement recorded by this Court on behalf of Defendants, the impugned judgment & order dated 19.04.2023 is sustained and it shall remain as it is save and except to substitute the figure of “Rs. 11,62,750/-” as appearing in paragraph No. 10 of the said judgment & order and all four clauses of the operative part of the

order at four different places by the figure of “Rs. 8,00,000/-”. Rest of the impugned judgment & order remains as it is.

6. In view of this order, learned Trial Court is directed not to wait until the amount is deposited by the Defendants as directed above within the next two months. Learned Trial Court is requested by this Court to proceed with Summary Suit No. 66/2018 strictly in accordance with law. Written statement shall be filed by Defendants within a period of two weeks from today. Once written statement is filed, it shall be taken on record and issues shall be framed within two weeks thereafter. Once the first installment of Rs. 4,00,000/- is deposited in the Court within a period of four weeks from today, learned Trial Court is directed by this Court to immediately begin hearing of the Summary Suit which shall be disposed of within a period of three months from the date of framing of the issues. Plaintiff as well as Defendants shall not take unnecessary adjournments and adjournments shall be given to them only if they are utmost necessary in the case of any emergency or exigency. Needless to state that if the aforesaid directions are not complied with by the Defendants i.e. if there is any breach or default in making the payment of the two installments as directed, the Suit shall proceed exparte against the Defendants and Defendants shall be barred from defending the Suit proceedings before the learned Trial Court. Defendants before me

represented by Mr. Jayale agree to this condition. It shall be incorporated in their joint undertaking which shall be filed in this Court. Needless to state that while determining, adjudicating and deciding the Summary Suit, learned Trial Court shall not be influenced by any observations and findings made in the impugned order and shall determine the Suit proceedings strictly in accordance with law and on the basis of evidence led by the respective parties.

7. All contentions of the parties before the learned Trial Court are expressly kept open.

8. It is clarified that the amount of Rs. 8,00,000/- shall be deposited before the learned Trial Court in the Suit account. Needless to state that once the deposits are made, the same shall be automatically invested in fixed deposit receipts as per the extant orders passed by this Court as well as by the learned Trial Court.

9. With the above directions, Writ Petition is allowed and disposed.

[MILIND N. JADHAV, J.]

Amberkar

RAVINDRA
MOHAN
AMBERKAR
Digitally
signed by
RAVINDRA
MOHAN
AMBERKAR
Date:
2024.03.26
19:14:02
+0530