

Arjun

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.16866 OF 2025

The Phoenix Mills Limited

...Petitioner

Versus

Inditrade Microfinance Limited

...Respondent

ARJUN
VITTHAL
KUDHEKAR

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Date: 2025.12.30
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Mr. Huzefa Nasikwala a/w Idris Balasinorwala, for the Petitioner.

Mr. Sanjeev Sawant a/w B K Barve, Diksha Gaikwad & Dhanesha Shingote i/b B. K. Barve & Co., for the Respondent.

CORAM: MADHAV J. JAMDAR, J.

DATED: 23 DECEMBER 2025

P.C.:

1. Heard Mr. Nasikwala, learned Counsel appearing for the Petitioner and Mr. Sawant, learned Counsel appearing for the Respondent.
2. By the present Writ Petition filed under Article 227 of the Constitution of India the challenge is to the legality and validity of the Order dated 2nd December 2025 passed by the learned Judge, Small Causes Court, Mumbai, below Exhibit-17 in L D Suit No.109 of 2025 (“**impugned Order**”).
3. The operative part of the impugned Order reads as under :-

“ORDER

1. The application (**Exhibit-17**) is partly allowed.

2. *The defendant is directed to handover articles mentioned in Panchnama dated 07.10.2025 such as Serial Nos.46,47,50,51,54,59,60,61 and 71 to the plaintiff.*
3. *Plaintiffs to bear their own cost and submit the Panchnama."*
4. Before considering the challenge to the impugned Order, it is necessary to set out certain factual aspects.
 - i. The Leave and License Agreement has been executed between the Petitioner who is the Licensor and the Respondent who is the Licensee on 21st January 2025 for the period w.e.f. 1st January 2025 till 30th June 2026.
 - ii. As per the Leave and License Agreement the Respondent was to pay an amount of Rs.5,06,047.5/- per month in advance to the Petitioner.
 - iii. It is the case of the Petitioner that the Respondent committed default in payment of monthly agreed leave and license compensation.
 - iv. It is an admitted position that now the subject premises are in possession of the Petitioner.
5. Mr. Nasikwala, learned Counsel for the Petitioner submitted that the Respondent is not entitled to remove any goods, etc. as the Petitioner has lien over the unpaid license fee. To support said contention, the Petitioner has relied on Clause No.4 (Page 43) of the

Leave and License Agreement, which reads as under:

*“4. In the event of termination of the license granted under this Agreement due to any **unpaid License Fee** or other amounts payable to the LICENSOR under this Agreement, the **LICENSOR shall have an automatic lien over all the stocks, goods & merchandise, equipments, furniture & fixtures, other movable assets and properties of the LICENSEE within the Licensed Premises till the due amount is paid by the LICENSEE to the LICENSOR.** The LICENSOR shall be entitled to take possession of all the property/material within the Licensed Premises and shall be fully and absolutely entitled to remove, sell, transfer all the property stocks, goods and merchandise, equipments, furniture and fixtures, other movable assets and properties etc. as it may in its sole discretion deem appropriate to recover its dues, without any notice to the LICENSEE. The LICENSOR shall not be held responsible for any apparent diminution in value to the property or damage to the reputation of the LICENSEE or its goods/property.”*

(Emphasis added)

6. According to the Petitioner, Rs.80,00,000/- is the balance amount to be paid by the Respondent and therefore there is lien over the stocks, goods and merchandise, equipments, furniture and fixtures, etc. on the basis of the Licensee. *Panchanama* of the goods, furniture, etc. is at Page No.86. The same consists of about 76 items. As far as Serial Numbers which the learned Trial Court has allowed to be handed over to the Respondent, the details of the same as per the *Panchanama* are as follows:

Sr. No.	Annexure-A	Quantity
46	Cabinet No. 1 Belong to PML - Files & Documents	1
47	Cabinet No. 2 Belong to PML - Files & Documents	1

50	Cabinet No. 5 Belong to PML - Files & Documents	1
51	Diaries	8
54	Cabinet No. 6 Belong to PML - Files & Documents	1
59	Cabinet No. 8 Belong to PML - Files & a box of stamps	1
60	Cabinet No. 9 Belong to PML - Loose Letters & Document	1
61	Cabinet No. 10 Belong to PML - Files & Documents	1
71	Pendrive	1

7. It is the submission of Mr. Sawant, learned Counsel for the Respondent that these are the files and documents of the customers of the Respondent which is a Finance Company.

8. Mr. Nasikwala, learned Counsel for the Petitioner points out Section 17 of the *Indian Contract Act, 1872* (“**Contract Act**”) and the decision of the Supreme Court in *Cotton Corpn. of India Ltd. v. United Industrial Bank Ltd.*¹. He pointed out Section 171 of the Contract Act and submitted that the Petitioner has lien over the same. He submitted that in terms of Clause (4) of the Leave and License Agreement, the Petitioner is having lien over the various goods, etc. which are mentioned in the *Panchanama*. He further submits on the basis of the decision of the Supreme Court in *Cotton Corpn.* (supra) that power to grant temporary injunction was conferred in aid or as auxiliary to the final relief that may be granted. If the final relief cannot be granted in terms as prayed for, temporary relief in the same terms can hardly if

¹ (1983) 4 SCC 625

ever be granted. He also relied on the Judgment of the Supreme Court in *Port of Bombay v. Sriyanesh Knitters*².

9. It is required to be noted that there is no dispute as far as the settled legal position that the interim relief is always in aid of final relief. However, this is a case where, the learned Trial Court has not directed handing over of all the goods, furniture, stock, etc. which are mentioned in the *Panchanama* and what has been directed to be handed over are the files and documents which pertains to the customers of the Respondent.

10. Thus, in the facts and circumstances, no interference in the impugned is warranted under writ jurisdiction of this Court under Article 227 of the Constitution of India.

11. Accordingly, the Writ Petition is dismissed, however, with no order as to costs.

[MADHAV J. JAMDAR, J.]

² (1999) 7 SCC 359