

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

**INTERIM APPLICATION NO. 2718 OF 2025
IN
COMMERCIAL SUMMARY SUIT NO. 4 OF 2025**

**IL and FS Energy Development Co. Ltd. ...Plaintiff
V/s.
Urjankur Shree Tatyasaheb Kore Warana Power Co. Ltd. ...Defendant**

**WITH
LEAVE PETITION NO. 58 OF 2025**

Mr. Ranjeev Carvalho with Mr. Sachin Chandrana and Mr. Jaiveer Dhakan i/b Manilal Kher Ambalal and Co. for the Plaintiff/Applicant.
Mr. Phiroze Colabawalla with Ms. Niharika Jalan i/b Mr. Indrajeet Hingane for the Defendant/Respondent.

**CORAM : ABHAY AHUJA, J.
DATE : 1st OCTOBER, 2025**

PC. :

Leave Petition No. 58 of 2025

1. Pursuant to the earlier orders of this Court, today when the matter is called out, Mr. Carvalho, learned Counsel appearing for the Applicant/Plaintiff submits that the necessary amendments have been carried out and paragraphs 22 and 23 have been inserted in the Plaint to take care of the relief in respect whereof leave under Order II Rule 2 of the Code of Civil Procedure, 1908 ("CPC") was being sought.

2. Mr. Carvalho submits that earlier the Plaint had been filed on 16th April, 2025 and that the third installment in respect whereof leave had

also been sought was to fall due on 22nd July, 2025, however, as on date the same has already fallen due and therefore, as regards the third installments, leave under Order II Rule 2 of the CPC is not required as the amendment takes care of it.

3. Mr. Carvalho however submits that as regards the Plaint seeking other reliefs arising out of the breach of the restated Share Purchase Agreement dated 29th November, 2021, the Applicant/Petitioner is seeking leave under Order II Rule 2 of the CPC, as the present Suit only seeks relief for recovery of the amounts and draws the attention of this Court to paragraph 23 of the Plaint.

4. Mr. Colabawalla, learned Counsel appearing for the Respondent-Defendant leaves it to the orders of this Court.

5. Having heard the learned Counsel and having considered their submissions and in particular the submissions in paragraph 6 of the Leave Petition and paragraph 23 of the Plaint, this Court is of the view that leave under Order II Rule 2 of the CPC be granted.

6. The Petition accordingly stands allowed in terms of prayer Clause

(a), other than the bracketed portion, which reads thus:-

“a. that leave under the provisions of Order II Rule 2 of the Code of Civil Procedure, 1908 be granted to the Petitioner [to amend the Suit and/or to omit to sue the Respondents in respect of the 3rd Installment of Rs. 09,07,84,011/- along with interest and other contractual charges which is to be due and payable on 22nd July 2025 as per the Schedule II annexed to the Repayment Undertaking dated 29th November 2021 (annexed as Exhibit “I” to the Complaint) and] for all reliefs other than those claimed herein and the Petitioner reserves its right to seek further reliefs, remedies and adopt appropriate proceedings, arising out of the same cause of action, including for damages and losses caused to the Petitioner for which the Petitioner omits to sue in the present Suit and for all the reliefs other than those claimed therein.”

7. The Petition accordingly stands allowed and disposed as above.

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8. Mr. Carvalho, learned Counsel for the Applicant seeks some more time to go through the additional affidavit(s) and file rejoinder(s) to the same.

9. Mr. Colabawalla, learned Counsel for the Respondent has no objection.

10. Let rejoinder affidavit(s) be filed within a period of two weeks with copy to the others.

11. List on **19th November, 2025.**

12. The statement in paragraph 7 of the order dated 20th August, 2025 to continue till the next date.

13. On the next date, this Court will consider grant of prayer Clause (c).

14. It is made clear that if by the next date no response to the additional affidavits is filed, this Court will consider relieving Mr. Colabawalla of the statement made.

(ABHAY AHUJA, J.)

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signed by
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GADGIL
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