(2020) 04 BOM CK 0001

In the Bombay High Court

Case No : Commercial Suit No. LD-VC-8, 8(IA) Of 2020

Anuya Jayant Mhaiskar APPELLANT

Vs

ICICI Home Finance Co. Ltd., Mumbai & Anr RESPONDENT

Date of Decision : 07-04-2020

Acts Referred:

Citation : (2020) 04 BOM CK 0001

Hon'ble Judges : A.K. Menon, J

Bench : Single Bench

Advocate : Vikram Nankani, Sumeet Nankani, Ameet Naik, Madhu Gadodia, Ranjit Shetty, Rahul Dev, Avina Karnad, Aditi Joshi, Aniruddh Gambhir, Preeti Mishra

Judgement

A.K. Menon, J

1. This hearing is convened on the video conferencing facility provided by the registry in view of restrictions placed on personal hearings in a court

room and in view of the social distancing requirements resulting from the COVID-19 pandemic. The matter has been listed today at the request of the

plaintiffâ??s Advocate and considering the urgency mentioned.

2. Mr. Nankani, learned senior counsel for the plaintiff-applicant, on instructions, undertakes to ensure that the suit will be properly lodged immediately

upon the lock-down is lifted and registry functioning and comply with all office objections within a period of four weeks from such lodgment. The

Advocates for the defendants and the named representatives of the defendants have participated in this hearing by video conference.

3. Mr. Nankani seeks relief on the same grounds as canvassed in Commercial Suit No.LD-VC-7 of 2020, which was heard today. Mr. Shetty submits

that the term loan facilities being similar, in this suit the total outstanding as on 25th March 2020 was Rs.3.01 crores. The repayment of this amount

would be subject to the moratorium.

4. By an order of even date passed in Commercial Suit No.LD-VC-7 of 2020, the plaintiffs therein have been directed to make certain payments,

failing which the defendant no.1 has been granted liberty to continue to sell the pledged shares. In this suit however it appears that the moratorium

contemplated in paragraph 5 of the RBIâ??s Press Release dated 27th March 2020 will be applicable inasmuch as the defendant no.1 will be

required to reschedule repayment outstanding in this account, which is said to be Rs.3.01 crores as on 25th March 2020.

5. Mr. Shetty on behalf of defendant no.1 submits that if the outstanding in the Loan Account No.120000002080 is settled as directed the order passed

today in COMMERCIAL SUIT NO.LD-VC-7 OF 2020, the shares pledged for securing the credit facilities under Loan Account No.120000002158

will not be sold to recover the dues unless the plaintiff fails to comply with the rescheduled payment terms. He states that, as contemplated in the RBI

circular, the parties will now confer with each other and reschedule the payments due under Loan Account No.120000002158. Mr.Shetty statement is

accepted as one on behalf of the defendants. In view of this statement, I pass the following order :-

(i) Defendant no.1 shall not sell further shares of MEP Infrastructure Developers Limited pledged by the plaintiff herein for recovery of amounts due

under the aforesaid Loan Account No.120000002158 during the three month moratorium contemplated by the RBI but subject to the plaintiff remitting

installments due after 1st March 2020 in accordance with the payment terms to be rescheduled.

(ii) This order excludes shares that may have been sold before close of trading hours today. In the event the plaintiff fails to comply with the

rescheduled instalments, the injunction shall stand vacated 72 hours after any default and the defendant no.1 may enforce its security without further

reference to court.

(iii) Liberty to apply in the event the rescheduling is not agreed upon or the loan account is not settled.