

Item no. 63

CS SCJ no. 476/2021

Bharat Bhushan Vs Muthoot Fincorp Ltd

03.07.2021

(HEARING CONDUCTED THROUGH CISCO WEBEX AS PER THE GUIDELINES OF HON'BLE HIGH COURT OF DELHI DUE TO COVID - 19)

Present:- Sh. Vishal Kalra, Ld counsel for the plaintiff (through VC).

Today, an application has been filed by the plaintiff under Order VI, Rule 17 CPC for amendment of the plaint, along with amended Memo of Parties, amended Plaint and amended List of Documents.

Perused. Heard.

Ld. Counsel for the plaintiff has also filed two additional documents (two emails), which have neither been mentioned in the plaint nor in the list of documents. Ld. Counsel for the plaintiff is directed to move appropriate application for bringing the said documents on record, if the plaintiff wishes to rely upon the same.

Further, it is observed from the amended plaint that the valuation of the subject matter for the purpose of jurisdiction has still not been done by the plaintiff, despite directions given on the last date, i.e. yesterday. In the application under Order VI Rule 17 also, in para 4, the plaintiff has sought leave of the Court for mentioning the weight of the ornaments pledged by him, in para 5 of the plaint, however, the said fact is still missing in the amended plaint. On being questioned by the Court, Ld. Counsel for the plaintiff has stated that the weight and the value of the ornaments has been mentioned in the documents filed on record, that is, the application of the plaintiff for pledging the ornaments with the defendant company for the purpose of obtaining loan. But no reasonable ground is mentioned as to why the same has not been specifically mentioned in the plaint. **Hence, application under Order VI Rule 17 CPC is allowed to the extent of only taking on record the amended Memo of Parties and amended List of Documents.**

Plaintiff is given one more opportunity to move a fresh application for filing amended plaint after rectifying all the discrepancies and clearly stating the facts therein, subject to the Rules prescribed under CPC. Moreover, plaintiff is also given one last opportunity to clearly specify the valuation of the subject matter of the suit for the purpose of ascertaining pecuniary jurisdiction, in terms of Order VII Rule 1 (i) of CPC and Rule 7, Chapter 3, Part A of Delhi High Court Rules regarding 'Valuation of Suits'.

At this stage, Ld. Counsel for the plaintiff has pressed for *exparte ad interim injunction* for restraining the defendant company from auctioning the ornaments of the plaintiff pledged with them, which auction is scheduled for today.

I have heard the counsel for the plaintiff at length and perused the records.

The plaintiff has not placed on record any loan agreement which was entered between the plaintiff and the defendant whereby the plaintiff has received the loan after pledging his ornaments/jewellery. On being asked by the Court, Ld. Counsel for the plaintiff stated that despite repeated requests of the plaintiff, the defendant company did not give any loan sanction document or any loan agreement to the plaintiff. Ld. Counsel for the plaintiff also submitted that the plaintiff had taken loan on six different occasions, vide his six separate loan applications, and he is ready and willing to make the payment of the loan amounts as per the terms and conditions, however, the defendant company is asking for repayment of all the six loans taken by the plaintiff in one go. It is submitted that the plaintiff is financially capable to only repay the loan towards four loans. It is prayed that plaintiff be granted more time for repayment of the remaining loans.

As the Court cannot alter the terms of any agreement which has been bilaterally entered between the parties, and more so as no loan agreement has also been produced by the plaintiff before the Court, which is alleged to be in the possession of the defendant company, the issue regarding the maintainability of the present suit on grounds of relief being claimed by the plaintiff as well as on the grounds of pecuniary jurisdiction are left open and it is deemed appropriate that opposite party is also heard on these issues.

Further, if the plaintiff is willing to repay the loan amount against four

loans granted to him, he would be at liberty to make repayment of any such loan amount which is due against him and which he is liable to pay, to the defendant company. **No ex-parte ad interim injunction can be granted at this stage in view of above said observations.**

In the meantime, let summons for settlement of issues and notice of interim application be issued to the defendants on PF, through electronic modes only, i.e. WhatsApp and email. Steps be taken today itself. Affidavit of correctness regarding genuineness of whatsapp number and email id be filed with the PF by the plaintiff before the next date of hearing.

Put up for arguments on the point of maintainability/further proceedings on **06.07.2021**.

(ANKITA LAL)

ASCJ-cum-JSCC-cum-GJ (South)

Saket Courts, New Delhi/03.07.2021