IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

R/FIRST APPEAL NO. 1171 of 2021
With
CIVIL APPLICATION (FOR STAY) NO. 1 of 2021
In R/FIRST APPEAL NO. 1171 of 2021
With
CIVIL APPLICATION (FOR PRODUCTION OF ADDITIONAL EVIDENCES) NO. 2 of 2021
In R/FIRST APPEAL NO. 1171 of 2021

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ATUL PRAKASHAN
Versus
DEEPAK CHAMPAKLAL SANGHAVI

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Appearance:
MR.D K.PUJ(3836) for the Appellant(s) No. 1
for the Defendant(s) No. 1,2,3

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CORAM: **HONOURABLE MR. JUSTICE J.B.PARDIWALA**
and
HONOURABLE MS. JUSTICE VAIBHAVI D. NANAVATI

Date : 07/06/2021
ORAL ORDER
(PER : HONOURABLE MR. JUSTICE J.B.PARDIWALA)

1. We have heard Mr. D.K. Puj, the learned counsel appearing for the appellant [original plaintiff]. It appears from the materials on record that the appellant herein preferred a Civil Suit No.894 of 2020 in the City Civil Court at Ahmedabad seeking specific performance of contract against the defendant no.1.

2. It is the case of the appellant that the State Bank of India agreed to the understanding arrived at between the appellant and defendant no.1 and accordingly, the appellant deposited an amount of Rs.1,85,00,000/- with the State Bank of India and the balance amount due and payable to the bank was paid by the defendant no.1 i.e. the original borrower.

3. It appears that thereafter something went wrong and the understanding, which was arrived at between the parties, was not given effect to. In such circumstances, the appellant herein preferred the Civil Suit.

The State Bank of India preferred an application under Order 7 Rule 11(d) of the Code of Civil Procedure praying for rejection of the plaint on the ground that the City Civil Court has no jurisdiction to try the suit in view of the provisions of the SARFAESI Act. The application for rejection of plaint came to be allowed and the plaint ultimately came to be rejected.

4. Being dissatisfied with the order passed by the City Civil Court rejecting the plaint, the appellant [original plaintiff] is here before this Court with the present appeal.

5. The aforesaid facts recorded by us today in our order are based on the submissions made by Mr. D.K. Puj, the learned counsel appearing for the appellant. The picture appears to be quite hazy. The presence of the State Bank of India as well as the original borrower is necessary for effective adjudication of the controversy.

6. In such circumstances, let ***Notice*** be issued to the respondents, returnable on ***14/07/2021***. Direct service is permitted.

(J. B. PARDIWALA, J)

(VAIBHAVI D. NANAVATI,J)

A. B. VAGHELA