

IN THE HIGH COURT OF JUDICATURE AT BOMBAY**ORDINARY ORIGINAL CIVIL JURISDICTION****COMMERCIAL SUIT NO.38 OF 2014**

Man Industries (INDIA) Ltd.

...Plaintiff

vs.

Kish Parsian International Procurement Company and Ors. ...Defendants

.....

Mr. Anindya Basarkod and Mr. C. Nageshwaran, i/b. M/s. Khaitan & Co.,
for the Plaintiff.

Ms. Pinny Pathak, for Defendant No.1.

.....

CORAM : S.C. GUPTE, J.**DATE: 23 NOVEMBER 2020****P.C.:**

. This commercial suit is for recovery of dues under an agreement termed as Memorandum of Agreed Terms dated 18 January 2014. The suit has been contested by Defendant No.1 by taking out a notice of motion, being Notice of Motion No.42 of 2015, for return of plaint under Order 7 Rule 10 of the Code of Civil Procedure. It is the case of Defendant No.1 that under the agreement between the parties, the jurisdiction to decide the claims is with UAE Courts and not with this Court. Pleadings have been complete in that notice of motion. Besides raising the issue of jurisdiction under Order 7 Rule 10, Defendant No.1 does not contest the suit by filling of a written statement. The only written statement filed in this suit is by Defendant No.3. Based on this

written statement, draft issues have been circulated by the Plaintiff before this Court with a copy to the Defendants. The Defendants have not indicated their response to the draft issues, despite a clear notice to the effect that the parties must come with agreed issues on today's date and only in case of disagreement between the parties, the issues shall be settled by this Court. So far as Defendant No.2 is concerned, by an order dated 4 October 2017, passed by the Prothonotary and Senior Master, the suit has been transferred to the list of undefended suits. Defendant No.4 has already stood deleted by an amendment carried out on 27 March 2014. As for Defendant No.5, the suit has been transferred to the list of undefended suits by an order dated 19 July 2017, passed by the Prothonotary and Senior Master.

2. In the premises, the following order is passed:-

(a) The commercial suit is stood over to 27 November 2020 for a case management hearing. Notice of Motion No.42 of 2015, taken out by Defendant No.1 in the commercial suit, shall appear on that date along with the commercial suit and will be heard on merits.

(b) Based on the hearing of the notice of motion, appropriate orders shall be passed, so far as the commercial suit against Defendant No.1 as also Defendant Nos. 2 and 5 are concerned.

(c) Further directions under Order 15A of the Code of Civil Procedure shall be passed on the next date, so far as the commercial suit against Defendant No.3 is concerned.

3. This order will be digitally signed by the Personal Assistant of this Court. All concerned will act on production by fax or email of a digitally signed copy of this order.

(S.C.GUPTE, J.)