

Sharayu Khot.

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

COMMERCIAL CHAMBER SUMMONS NO. 78 OF 2017

IN

COMMERCIAL EXECUTION APPLICATION NO. 947 OF 2018

Gia (MSA) Holdings Limited

...Applicant

Versus

Katra Holdings Limited & Anr.

...Respondents

Mr. Yakshay Chheda for the Applicant.

Mr. Shashank Trivedi i/by Naik Naik & Co. for the Respondent
Nos. 1 and 2.

CORAM : R.I. CHAGLA J

DATE : 22 March 2021

ORDER :

1. Heard the learned Counsel for the parties.
2. Learned Counsel for the Applicant presses for prayer clause (a) to be granted which reads thus:-

“(a) Pass an order directing the Respondent No. 1, its directors, promoters, officers, servants and agents to

disclose, by way of an affidavit, an actual and faithful account of all its assets and properties, moveable and immovable, secured and unsecured, encumbered or not encumbered, situated in India and outside India including monies lying in bank accounts in the name of the Respondent No. 1, book debts and its shareholding in Indian entities, along with its last audited balance sheet, including its investments and list of outstanding liabilities.”

3. He submits that the Award which has been passed, is under challenge. Arbitration Petition has been filed under Section 34 of the Arbitration and Conciliation Act, 1996 and Notice of Motion has been taken out under Section 36 of the Act. However, this Court has till date not granted stay of the award. He submits that it is necessary for disclosures to be made by the Respondents which have been sought for in this Chamber Summons.

4. Learned Counsel for the Respondents refers to order dated 3rd July 2018 passed by the Single Judge of this Court (Coram: G.S. Patel, J.) wherein an order has been passed in terms of prayer clause (a) of the Chamber Summons and the Respondents were put to notice that they shall not create any

further encumbrances on any of their assets, movable or immovable in India, without prior leave of the Court obtained after at least 48 hours' prior notice to the Advocates for the Petitioner.

5. It has been made clear in the said order that the order is passed subject to any orders that may be passed by the Arbitration Court hearing the Application under Section 36 or the Petition under Section 34 of the Arbitration and Conciliation Act, 1996. He accordingly, submits that it would be appropriate to await the decision taken by the Arbitration Court which is hearing the Application under Section 36 of the Arbitration and Conciliation Act, 1996.

6. Having considered the submissions, it is noted that the Application has been taken out under Section 36 of the Arbitration and Conciliation Act, 1996 which is still pending before the Arbitration Court. Further, the award has been challenged under Section 34 of the Arbitration and Conciliation Act, 1996. By this Chamber Summons taken out by the Applicant in Execution Application, the Applicant seeks relief prayed for therein including prayer clause (a) which has been

pressed by the learned Counsel for the Applicant.

7. Considering that the Arbitration Court has still to pass the order under Section 36 of the Arbitration and Conciliation Act, 1996, it would be appropriate to await such order prior to granting any relief in the above Chamber Summons.

8. Accordingly, the Chamber Summons is adjourned by a period of four weeks i.e. to 16th April 2021 to await the outcome of the Application taken out under Section 36 of the Arbitration and Conciliation Act, 1996.

9. Chamber Summons is stood over to 16th April 2021.

[R.I. CHAGLA J.]