

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
IN ITS COMMERCIAL DIVISION
COMM SUMMARY SUIT NO. 61 OF 2012**

The State Trading Corporation of India Ltd. ...Plaintiff

Versus

M/s. Space Mercantile Co. Pvt. Ltd & ors. ...Defendants

Mrs. S. I. Shah, i/b S. I. Shah & Co., for the Plaintiff.
Adv. Jehangir Jejeebhoy, for Official Liquidator/Defendant
no.1.

Mr. Manish Bohra, i/b M/s. A. S. Khan, for Defendant no.2.
Mr. D. A. Athavale, for Defendant no.4.

CORAM: N. J. JAMADAR, J.

DATED : 30th JANUARY, 2020

PC:-

1. Heard the learned Counsels for the parties.
2. In view of the pleadings, the following issues arise for determination:
 - (1) Is the suit barred by law of limitation?
 - (2) Does the plaintiff prove that the suit claim is based on the terms and conditions of the Agreement dated 30th May, 2007?
 - (3) Does the plaintiff prove that the plaintiff is entitled to proceed against defendant nos.2 to 4, in their capacity as the Directors of defendant no.1?

- (4) Does the plaintiff prove that defendant nos.2 and 3 had executed personal guarantee in favour of the plaintiff?
 - (5) Does the plaintiff prove that the personal guarantee dated 24th July, 2007, executed by defendant no.4, was adequately stamped and is valid and subsisting?
 - (6) Does the plaintiff prove that the defendant had acknowledged the liability under letter dated 13th September, 2008?
 - (7) Is the plaintiff entitled to recover an amount of Rs.49,45,70,242/- or any other amount from defendant nos.2 to 4, jointly and severally?
 - (8) Is the plaintiff entitled to recover the interest as claimed?
 - (9) What order, costs and decree?
3. The plaintiff shall, on or before 12th March, 2020, file (i) the evidence affidavit of the plaintiff's first witness; (ii) an affidavit of documents; and (iii) a compilation of documents duly indexed and paginated. Copies of each of these will be served on the advocates for the Defendants before that date.
4. The defendants shall, on or before 26th March, 2020, file (i) an affidavit of documents; and (ii) a compilation of documents

duly indexed and paginated. Copies of each of these will be served on the advocates for the plaintiffs on or before that date.

5. Discovery and inspection is to be completed and statements of admission and denial are to be exchanged on or before 2nd April, 2020.

6. On the plaintiffs complying with these directions, the matter will be taken up for marking of the plaintiffs' documents and further directions on 9th April, 2020, irrespective of the caption under which the matter appears.

[N. J. JAMADAR, J.]