

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
IN ITS COMMERCIAL DIVISION
COMMERCIAL APPEAL NO. 492 OF 2019
IN
SUMMONS FOR JUDGMENT NO.67 OF 2018
WITH
INTERIM APPLICATION NO.1026 OF 2022
IN
COMMERCIAL APPEAL NO.492 OF 2019

Bonton Holidays Pvt Ltd.

....Appellant

V/s.

European Gateway Sarl

...Respondent

Dr. Abhinav Chandrachud a/w Mr. Pranit Kulkarni and Mr. Rohit Upadhyay
i/b Kumar and Associates for Appellant.

Dr. Birendra Saraf, Senior Advocate a/w Ms Shruti Maniar & Mr. Advait
Shukla i/b Solomon & Co. for Respondent.

CORAM : K.R. SHRIRAM &
KAMAL KHATA JJ

DATED : 29th NOVEMBER 2022

P.C. :

1 Dr. Saraf, at the outset, raises a preliminary objection to even entertaining the appeal on the ground that appellant's Directors have filed false affidavits in the execution proceedings and the court even directed the Directors to remain present but on one ground or the other they did not remain present. After July 2022, the matter has not reached before the Learned Single Judge.

2 We have considered a copy of the affidavit of one Jalpa Dalal, affirmed on 8th March 2020 in which, there is an averment that there are no

immovable properties in the name of judgment debtors. Dr. Saraf has placed on record a compilation in which, there is a copy of board resolution dated 1st June 2020 in which, a Director of the Judgment Debtor company has been authorised to deposit the title deeds of immovable property / fixed assets belonging to the company, i.e., appellant herein against facility to be given by a financial institution. Dr. Saraf states, therefore, appellant having made false statement to their knowledge to this court, the court should not entertain the appeal.

3 Dr. Chandrachud requested the matter be stood over so that he can take instructions on the statement made and documents tendered by Dr.Saraf.

4 Therefore, stand over to 5th December 2022.

(KAMAL KHATA, J.)

(K.R. SHRIRAM, J.)