

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
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
IN
SUMMONS FOR JUDGMENT NO. 67 OF 2018

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Bonton Holidays Pvt. Ltd.

.. Appellant

Versus

European Gateway Sarl

.. Respondent

Senior Advocate Mr. Rahul Narichania, Vikhil Dhoka and Ankur Shah i/b. GM Legal for the Appellant.

Senior Advocate Mr. Chetan Kapadia a/w Karl Tamboly (through V.C.) Shadab Jan, Shruti Maniar & Shrikant Pillai i/b. M/s. Solomon & Co. for Respondent.

**CORAM: B. P. COLABAWALLA &
SOMASEKHAR SUNDARESAN, JJ.**

DATE: APRIL 04, 2024

P. C.

1. The above Appeal had been fixed for hearing at the admission stage at 2.30 pm on 21st March, 2024. Due to exigency of work, the said Appeal could not be taken up on that date. We had

therefore placed the above Appeal on board on 10th April, 2024 at 2.30 pm, when we had stated that we would endeavor to dispose of the Appeal at the admission stage itself. We had also made it clear that we had not granted any stay to the impugned order and the executing court shall proceed with the execution uninfluenced by the pendency of the above Appeal.

2. Today the matter has been urgently moved before us because the executing court is proceeding with the execution of the impugned decree.

3. Mr. Narichania, the learned Senior Counsel appearing for the Appellant, has tendered a Demand Draft of Rs. 2,24,58,841.67/- which is the amount due and payable by the Appellant to the Respondent under the impugned decree, together with interest up to 20th March, 2024. The said Demand Draft is in favour of the Prothonotary and Senior Master of this High Court. Mr. Narichania submitted that on this amount being deposited, the decree be stayed because virtually the entire dues of the Respondent would now be secured by the aforesaid deposit.

4. Considering these facts, we direct that the Demand Draft in favour of the Prothonotary and Senior Master, in the sum of Rs. 2,24,58,841.67/- shall be deposited by the Prothonotary and Senior Master and kept to the credit to the above Appeal. On the aforesaid amount being encashed by the Prothonotary and Senior Master, the execution of the impugned decree shall remain stayed.

5. As recorded in the order dated 21st March, 2024, we place the above Appeal on board on 10th April, 2024 at 2.30 pm when we shall endeavor to try and dispose of the above Appeal at the admission stage itself.

6. In light of the order passed today, now nothing survives in the above Interim Application which seeks a stay of the impugned decree, and the same is disposed of accordingly.

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

[SOMASEKHAR SUNDARESAN,J.]

[B. P. COLABAWALLA, J.]