

CS/151/2020
IA NO. GA/1/2021
IN THE HIGH COURT AT CALCUTTA
ORDINARY ORIGINAL CIVIL JURISDICTION
COMMERCIAL DIVISION

M/S. ASTREX ENTERPRISE PVT. LTD.
VERSUS
SUNIL KISHIN PUNWANI

BEFORE:
The Hon'ble JUSTICE DEBANGSU BASAK
Date: 21th January, 2021.

(Via Video Conference)

Appearance:
Mr. Rupak Ghosh, Adv.
Mr. Ayan Dutta, Adv.
Mr. Asif Sohail Tarafdar, Adv.

Mr. Supratim Laha, Adv.
Mr. Balaji Chakraborty, Adv.

The Court: Plaint presented is admitted subject to scrutiny by the department.

Leave under Clause 12 of the Letters Patent, 1865 and Order II Rule 2 of the Code of Civil Procedure, 1908 granted.

In view of the plaintiff seeking urgent relief by way of interim application, leave under Section 12A of the Commercial Court's Act, 2015 granted.

In a suit for recovery of money lent and advanced, the plaintiff seeks interim protection.

Learned advocate appearing for the plaintiff submits that the plaintiff lent and advanced principal sum of Rs.1.95 crores to the defendant. The defendant repaid a sum of Rs. 45 lakhs on account of principal. The defendant is yet to repay the balance principal amount of Rs.1.50 crores and the outstanding agreed interest thereto. He submits that unless the defendant is restrained from withdrawing any amount from the bank account mentioned in prayer (a) of the application, the plaintiff will not find any asset of the defendant to execute the eventual decree that may be passed in the instant suit.

The defendant is represented.

Learned advocate appearing for the defendant submits that a copy of the application may be served on the defendant and he may be permitted to contest the application.

In such circumstances, the plaintiff having a, prima facie, case and the balance of convenience being in favour of the plaintiff and unless an order of injunction is passed, there is every likelihood of the plaintiff being prejudiced, it would be appropriate to pass an order of injunction in terms of prayer (b) of the application. The defendant is restrained from withdrawing any sum from A/c. No.309001378720, IFSC Code: RATN0000167 of the defendant lying with the RBL Bank Ltd., 57, Jawahar Lal Nehru Road, Kolkata – 700071 branch without keeping aside a sum of Rs.1.50 crores towards the claim of the plaintiff.

The plaintiff will serve a copy of this application upon the defendant and file an affidavit of service to such effect on the next date.

Let affidavit in opposition be filed within three weeks from date; reply thereto, if any, within two weeks thereafter. List this application as “Adjourned Motion” five weeks hence.

(DEBANGSU BASAK, J.)

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