

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
NOTICE OF MOTION (L) NO. 2235 OF 2014
IN
THIRD PARTY NOTICE NO. 3 OF 2014
IN
SUIT NO. 173 OF 2014

National Spot Exchange Limited

..... Applicant

IN THE MATTER BEWTEEN

Modern India Ltd. & Ors.

..... Plaintiffs

VERSUS

Financial Technologies (India) Limited & Ors. Defendants

AND

Juggernaut Projects Limited & Ors.

..... Third Parties

Mr.S.U.Kamdar, Senior Advocate, a/w.Dr.Birendra Saraf, Mr.Ameet Naik, Ms.Anuja Jhunjunwala, i/b. Naik Naik & Co. for the Applicant in CHS.

Mr.Akshay Patil, a/w. Ms.Hiral Thakkar, i/b. Federal & Rashmikant for the Plaintiffs.

Mr.S.P.Bharti, i/b. Mr.P.R.Yadav for Third Party Noticees.

CORAM : R.D. DHANUKA, J.

DATED : 23rd DECEMBER, 2014

P.C.

By this notice of motion, the applicants seeks decree on admission in terms of order 12 rule 6 of the Code of Civil Procedure, 1908 for the sum of Rs. 219,20,00,000/- admitted to be due and payable by third party noticee no.1 to the applicant (original defendant no.2.) plus interest at the rate of 18% per annum from August 2013 till the date of payment and for other reliefs.

2. My attention is invited to the proposal for the discharge submitted by third party noticee no.1 before MPID Court. A letter addressed by third party noticee no.1 dated 1st August, 2013 indicate that the said party has admitted liability of Rs.2,01,68,91,406/- subject to final account. My attention is also invited to the proposal for discharge submitted by the third party noticee no.1 before MPID Court in Bail Application No. 1749 of 2013 admitting the liability after bank reconciliation to the tune of Rs.145 to 146 crores.

3. Learned senior counsel reiterated the submissions made by him in Notice of Motion (L) No. 2234 of 2014 as a part of the arguments in this notice of motion. Mr.Bharti, learned counsel appearing for the third party noticees also reiterated the submissions made by the learned counsel in Notice of Motion (L) No. 2234 of 2014 as if part of the submission in this notice of motion.

4. For the reasons recorded by this court in Notice of Motion (L) No.2234 of 2014, I pass the following order :-

(a) Notice of motion is made absolute in terms of prayer (a) to the extent of Rs.145 crores with interest at the rate of 18% per annum from August 2013 till the date of payment.

(b) In so far as balance amount claimed by the applicants is concerned, the third party notice to be decided on its own merits.

(c) During the pendency of the Third Party Notice No. 3 of 2014, there shall be ad-interim injunction in terms of reliefs

claimed in prayer (f) which shall also be extended to the assets disclosed by the third party noticee no.1 in the affidavit of disclosure dated 19th December, 2014 in respect of the immovable property. Such injunction shall continue till disposal of Third Party Notice No.3 of 2014.

(d) In so far as four bank accounts disclosed in the said affidavits are concerned, Mr. Bharti, learned counsel appearing for the third party noticee states that his client has no objection if the amounts lying in the bank accounts of his client disclosed in the affidavit of disclosure are transferred to escrow account of NSEL without prejudice to the rights and contentions of both parties. Statement is accepted. Third party noticee will be permitted to operate such bank accounts if the entire balance in such accounts are already transferred to the escrow account of NSEL and on the condition that the attachment order if any passed by EOW or any other authority is lifted.

(e) It is made clear that the applicant is permitted to produce an authenticated copy of this decree passed today before the committee appointed for further action.

(f) Notice of motion is disposed of. No order as to costs.

[R.D. DHANUKA, J.]