

(CNR No. :- MHSCA2001431-2021)

IN THE COURT OF SMALL CAUSES AT MUMBAI

ORDER BELOW EXHIBIT – 107
IN
EXECUTION APPLICATION NO. 209 OF 2021
IN
L.E. SUIT NO.58 OF 2019

Hemant Shantaram Pikale ...Applicant

In the matter

Hemant Shantaram Pikale ..Judgment Creditor/
Org. Plaintiff

Versus

Scandent Imaging Ltd. ... Judgment Debtor/
Org. defendants

Coram :- R. N. Bansal, Judge

C. R. No. 08

Date :- 14/10/2024

ORDER :

This is an application filed by on behalf of the applicant inter alia seeking stay of the alienation of assets of the defendant company proposed to be carried out in the forthcoming Annual General Meeting be held on 30th September,2024 along with other reliefs.

2. Perused application and reply at Exhibit-109 filed by the plaintiff. Heard learned advocate for both the parties at length. Perused record.

3. It appears that, the plaintiff/deGREE holder has filed this application for interim relief seeking injunction against the judgment-

debtor along with other reliefs. Considering the contents in the application along with prayer and orders passed by Hon'ble High Court in Writ Petition No.1114 of 2024 with Writ Petition No.14794 of 2022 dated 31.07.2024 and dated 30.08.2024, it appears that the Hon'ble High Court vide order dated 30.08.2024 has already granted continuation of the order dated 27.09.2021, passed by this Court, in the present file till 31.10.2024, as well as also granted liberty to the plaintiff to seek continuation of the said interim order dated 27.09.2021 beyond 31.10.2024. Therefore in my view the plaintiff is not entitled for prayer clause 'd' in the application seeking injunction against defendant from alienation or disposing of or creating any third party rights in the suit premises.

4. On perusal of prayer clause 'a' the plaintiff is seeking stay the agenda qua alienation of assets especially item no. 3 and 5 of the notice of Annual General Meeting of defendant company dated 30.09.2024. Today this reliefs become infructuous as AGM dated 30.09.2024 was already held. The direction to the defendant to disclose all it's assets on oath was already directed by this Court therefore there is no necessity to direct it again as per prayer clause 'b' of this application. So also there is no need to appoint a Court Receiver over all the properties of defendant companies or freeze all the bank accounts of defendant, as defendant company specifically submitted before Hon'ble High Court at the time order dated 30.08.2024 that they does not have any intention alienate it's assets and the defendant will abate by the order dated 27.09.2021.

5. It appears from the order of Hon'ble High Court that, the Hon'ble High Court has already directed to the defendant to deposit

an amount of Rs.3,67,73,382/- till 30.09.2024. it further appears that, according to said direction the defendant has failed to deposit the said amount till date. Now as per today' order below Exh.1 it is clearly seen that no stay is in force for the present execution petition. The decree holder in prayer clause 'e' seeking attachment of the properties of the respondent to the extent of Rs.3,67,73,382/-. As there is no stay, so also as the defendant is not complied with the order of Hon'ble High Court therefore, it is necessary to attach the movable property of the defendant for the recovery of said amount. Hence the following order.

: ORDER :

1. Application is partly allowed.
2. Issue distress warrant under order XXI Rule 43 of Code of Civil Procedure for the amount of Rs.3,67,73,382/-(Rupees Three Crore Sixty Seven Lakh Seventy Three Thousand Three Hundred Eighty Two).
3. Both parties to take note.

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by ROSHNI
NILESH
BANSAL
Date:
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(R. N. Bansal)
Judge, C.R. No.08
Small Causes Court, Mumbai.

Date : 14/10/2024

8/11/24

IN THE COURT OF SMALL CAUSES AT MUMBAI

EXHIBIT NO. 107 OF 2024

IN

EXECUTION APPLICATION NO. 209 OF 2021

Hemant Shantaram Pitale ... PLAINTIFF

v/s

Scander imaging Ltd. ... DEFENDANTS


APPLICATION FOR STAY

MAY IT PLEASE YOUR HONOUR:-

That this Honble Court was pleased to partly allow the above exhibits whereby directions of Attachment of Movable was granted by this Honble Court vide order dated 14.10.2024

That the defendants intend to challenge the said order before the higher Court and therefore it is prayed that the order dated 14.10.2024 be stayed for 12 weeks to enable the defendants to challenge the said order in the interest of Justice as the counter claim of the defendants is still pending adjudication

Dated this 15th day of October, 2024


Adv. for Defendants



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0.5 to say

Present
14.10.24
Judge
CR-8
14/10/24

Stay of Plaintiff

The application is strongly objected and the same deserves to be rejected with cost.

The time of 12 weeks cannot be granted as the Plaintiff apprehends that the relief will alienate all the property. Hence the application be dismissed with cost.

B. Bah
For Adv. De Melita
Adv for Plff

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perused applⁿ and say. Heard advocate for both the parties. Considering the contents in applⁿ 3 weeks stay is granted to the order with direction to the detⁿ to maintain statu quo as per order date 27/9/2021 till next date in view of order of hon'ble H.C. date 30/8/2021.

B. Bah
14.10.24.