

NOTICE TO SHOW CAUSE (GENERAL FORM)

IN THE COURT OF THE HON'BLE ADDL. CHIEF JUDGE:
CITY CIVIL COURT AT SECUNDERABAD

I.A No. 3/75 OF 2023
IN

A.S NO. OF 2023

Between:

M/s. Religare Finvest Ltd

Assr 1982

... Appellant

AND

M/s. Modi Properties Pvt Ltd

... Respondent

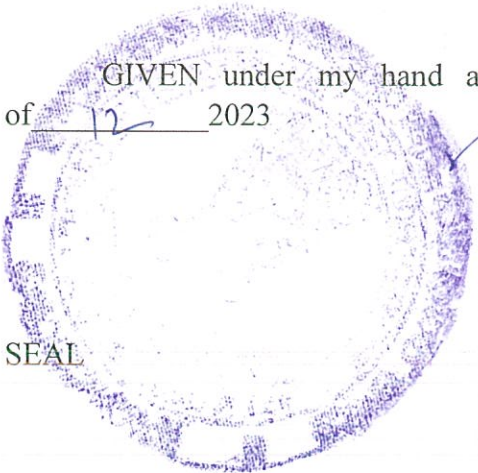
To,

M/s. Modi Properties Pvt Ltd, Rep. by its Managing Director, Sri Soham Modi, Having its office at 5-4-187/3 &4, II Floor, Soham Mansion, MG Road, Secunderabad.

WHEREAS the above named Petitioner filed a petition under Order IX Rule 9 of Civil Procedure Code have made an application to this Court.

You are hereby wanted to appear in this court in person or through Advocate duly instructed on this the 10 day of 01 2023 at 10-30 A.M. to show cause against the application failing which the said application will be heard and determines exparte.

GIVEN under my hand and the seal of the Court this 13 day of 12 2023



SEAL

Am
SUPERINTENDENT
DEPUTY NAZIR
CITY CIVIL COURT
BY ORDER NAZIR
SECUNDERABAD

IN THE COURT OF THE HON'BLE ADDL. CHIEF JUDGE:
CITY CIVIL COURT AT SECUNDERABAD

I.A No. OF 2023
IN
A.S NO. OF 2023
IN
O.S. NO.381 OF 2018

Between:

M/s. Religare Finvest Ltd

... Appellant/ Defendant

AND

M/s. Modi Properties Pvt Ltd

... Respondent/ Plaintiff

AFFIDAVIT

I, A Wilson S/o. A. Antony, aged about: 49 years, Occ: Assistant Vice President at Religare Finvest Having office at No.14/FFA, 1st Floor, 4th Avenue, Ashok Nagar, Chennai- 600 083 came down to Branch office at Hyderabad., do hereby solemnly affirm and sincerely state on oath as follows:

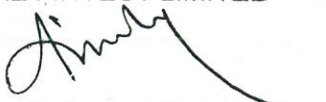
1. I submit that I am the deponent and the authorized signatory of the appellant herein as such I am well acquainted with the facts of the case to depose herein.

2. I submit that the above appeal is filed aggrieved by the Decree and Judgement passed before the Hon'ble I Junior Civil Judge: City Civil

At Secunderabad in O.S No. 381 of 2018 against this appellant/defendant.



For RELIGARE FINVEST LIMITED


Authorized Signatory

3. I submit that the Appellant herein is a financial institution registered under Companies Act. During its regular course of business, the Respondent/Plaintiff approached the appellant/defendant financial institution for the purpose of availing financial credit facility. Basing on the credibility, the appellant has sanctioned loan to the respondent herein vide its Loan account no. XMORPAN00030058 to a tune of Rs. 1,10,00,000/- which is repayable in monthly EMI of Rs. 3,23,125/- per month for the tenure of 43 months. It is alleged by the Respondent herein that they have paid EMIs every month without deducting the TDS on behalf of the appellant herein. It is alleged by the respondent that Rs. 3,76,434/- is the total TDS amount out of which the appellant reimbursed Rs. 2,86,256/- and there is a balance outstanding of Rs. 90,178/- for the period of 2011-12, 2012-13, 2013-14.

4. I submit that the Respondent's loan account is closed on 24-11-2013 and also is in receipts of Loan closure letter. It is submitted that the Respondent/plaintiff alleged that they got issued legal notice to the appellant/defendant on 05-03-2018. Subsequently, the Respondent herein has filed O.S No. 381 of 2018 before the Hon'ble I Junior Civil Judge: at

Secunderabad against this appellant seeking for recovery of TDS amounts. Thereafter, the rights of the Appellant/Defendant in O.S got

For RELIGARE FINVEST LIMITED

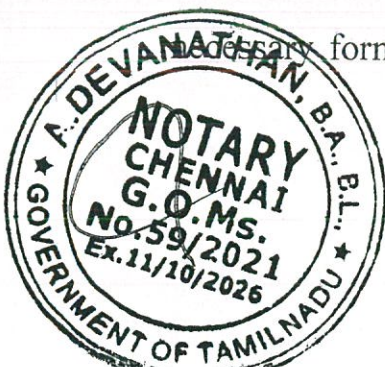

Authorised Signatory



forfeited due to non-filing of written statement and the Hon'ble Court has passed decree and judgement in favour of the Respondent/plaintiff herein directing to pay Rs.90,178 @ 18%p.a interest till the date of realization.

5. I submit that whenever the Respondents paid the TDS , the appellant herein were requesting for the receipts of the same to reimburse after the due verification. However, the appellant has released an amount of Rs. 2,86,256/- without holding the payments and further respondent failed to submit necessary forms with proper heading to claim/ reimburse the TDS as it is a statutory requirement and further he defaulted in repayment of EMI and the TDS amount will be released after adjustment of charges for the delayed payment

6. I submit that the suit filed by the Respondent herein is false, speculative and not maintainable either in law or in facts. The respondents did not place the appropriate facts before the Trial court. The Respondent is a loan account holder of XMORPAN00030058 and XMORPAN00048078 in the name of Mehta and Modi Homes wherein he has defaulted in repayment monthly installments. Due to the default in payment of monthly loan amounts and respondent failed to submit necessary forms with proper heading to claim/ reimburse the TDS, the



For RELIGARE FINVEST.LIMITED

Authorised Signatory

balance TDS amount if any was not paid to the appellant in respect of loan no. XMORPAN00030058.

7. It is very much pertinent to submit here that the suit filed by the Respondent is prima facie lacks in merits and bonafides and deserves to be suspended with exemplary costs. It is submitted that while considering the present suit, the hon'ble trial court at the time of numbering itself should have returned for the lack of limitation but the suit got numbered even though it is barred by limitation. The present suit needs to be filed within three years from the issuance of loan closure, wherein the Respondent chose to issue notice some where in the year 2018 after lapse of five years from the date of loan closure is only to start the fresh limitation by way of legal notice. The loan account of the Respondent was closed on 24-11-2013, the limitation to file the suit was barred way far before. Analysing the same, the Respondent tactically issued notice on 05-03-2018 on the appellant to show-cause the limitation after being silent since 2013 to 2018 itself shows the ill intention to avoid the default payments of existing loan accounts as stated supra.

8. I submit that as the respondent/plaintiff is defaulter in repayment of some TDS amount was adjusted towards pending charges/ interest.

It is submitted that at the time of closure of loan account the

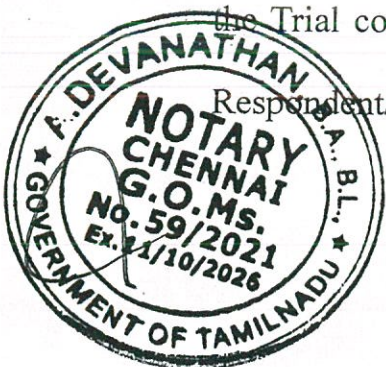
For RELIGARE FINVEST LIMITED


Authorised Signatory



Respondent/Plaintiff was informed that the amounts will be adjusted towards the cheque bouncing charges and interest amounts levied on every occasion of EMI default. As such, the appellant/defendant timely returned the above stated supra amount to Respondent/plaintiff and the remaining balance the appellant has adjusted towards the said bounce charges, interest charges to settle the Loan account and issued Closure Letter to the Respondent. I submit that knowing the fact of the same, only to gain illegal amounts the Respondent has filed the said suit before the Trial Court by suppressing the said facts. The Respondent is holding group of loan accounts with the Appellants under the name of Silver Oaks Rality, Paramount Estates who is operated by the Respondent Partner itself. The said loan account no. XM0RPAN00048078. There is pending proceedings before this Hon'ble court for the same i.e., E.P No. 51 of 2021 in O.S No. 191 of 2018. Further, respondent/plaintiff failed to provide the proof showing that he has submitted necessary documents to the Appellant/Defendant i.e., FORM 16A for reimbursement of TDS.

9. On the basis of the above pleadings, it is very much evident that the Respondent/Plaintiff did not place necessary material documents before the Trial court and obtained the Decree and judgement in favour of the Respondent/ Plaintiff herein.



For RELIGARE FINVEST LIMITED

Authorized Signatory

10. I humbly submit that the judgement and decree of the learned Trial Judge is incorrect and was not based on proper appreciation of facts and law. I have set out the grounds in the above appeal, on which the said judgement and decree of the learned Trial Judge is incorrect and crave the leave of this Hon'ble to read the said grounds as part and parcel of this affidavit.

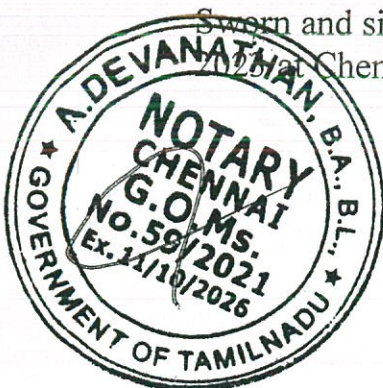
11. I submit that unless this Hon'ble court suspends the judgement and decree of the learned Trial Judge, I would be put to irreparable loss and damage, inasmuch as, the respondent would initiate action for payment of amount of Rs.90,178/- along with interest 18%p.a and any such action would cause grave and irreparable loss and damage to my interest.

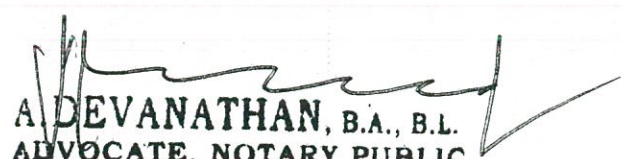
Therefore, it is prayed that this Hon'ble court may be pleased to suspend all further proceedings pursuant to the judgement and decree dated 20-07-2022, passed by the learned I JUNIOR Civil Judge, City Civil Court, Secunderabad in OS No. 381 of 2018 till the disposal of the above appeal and pass such other order or orders as this Hon'ble court deems fit and proper in the circumstances of the case.

For RELIGARE FINVEST LIMITED


Authorised Signatory
Deponent

Sworn and singed on thisday, July,
2021 at Chennai.




A. DEVANATHAN, B.A., B.L.
ADVOCATE, NOTARY PUBLIC
COMMISSIONER OF OATHS
Law Association, City Civil Court,
No. 189, Addl. New Law Chambers,
High Court Campus, Chennai - 600 104

IN THE COURT OF THE HON'BLE ADDL. CHIEF JUDGE:
CITY CIVIL COURT AT SECUNDERABAD

A.S NO. OF 2023

IN

O.S. NO.381 OF 2018

Between:

M/s. Religare Finvest Ltd
Rep., by its authorized signatory
Office at Flat no. 401,
2nd Floor, G S Chambers, Nagarjuna Circle,
Punjagutta, Hyderabad.

Also at

A-3/4/5, Tower A.5th Floor, Noida,
UP 201301.

Also at

2nd Floor, Rajlok Building, 24 Nehru Place,
New Delhi.

... Appellant/ Defendant

AND

M/s. Modi Properties Pvt Ltd
Rep. by its Managing Director,
Sri Soham Modi,
Having its office at
5-4-187/3 &4, II Floor,
Soham Mansion,
MG Road, Secunderabad.

... Respondent/ Plaintiff

PETITION FILED UNDER SECTION 151 OF C.P.C

For the reasons stated in the accompanying affidavit, the
petitioner herein prays that this Hon'ble court may be pleased to suspend
all further proceedings pursuant to the judgement and decree dated 20-07-

2022, passed by the learned I JUNIOR Civil Judge, City Civil Court, Secunderabad in OS No. 381 of 2018 till the disposal of the above appeal and pass such other order or orders as this Hon'ble court deems fit and proper in the circumstances of the case.

Place: Secunderabad

Date: 25-11-2023

Kalyan. S

Counsel for Appellant/Defendant



IN THE COURT OF THE
HON'BLE ADDL. CHIEF
JUDGE: CITY CIVIL COURT
AT SECUNDERABAD

I.A No. OF 2023

IN

A.S NO. OF 2023

IN

O.S. NO.381 OF 2018

Between:

M/s. Religare Finvest Ltd

... Appellant/ Defendant

AND

M/s. Modi Properties Pvt Ltd

... Respondent/ Plaintiff

PETITION FILED SECTION
151 OF C.P.C

Filed On: 28-11-2023

Filed By:

M/s. G Kalyan Chakravarthy

Swathi Menon

Manyam K

Latha Devi N

Avinash N

Advocate's

Counsel for Appellant