

(1981) 02 BOM CK 0042

Bombay High Court

Case No: Summons for Judgment No. 237 of 1980 (in Suit. No. 597 of 1977)

Central Bank of India

APPELLANT

Vs

Femme Pharma Ltd.
and Others

RESPONDENT

Date of Decision: Feb. 23, 1981

Acts Referred:

- Bombay High Court (Original Side) Rules, 1980 - Rule 227

Citation: AIR 1982 Bom 67

Hon'ble Judges: Mody, J

Bench: Single Bench

Advocate: P.P. Khambata, for the Appellant; J.M. Patel, for the Respondent

Judgement

@JUDGMENTTAG-ORDER

Mody, J.

Mr. Patel refers to R. 227 of the High Court Original Side Rules 1980 and to R. 290 (4) of the Rules of 1957 and contends that I must place the suit on board for dismissal and must dismiss the same. He says that under the old rule the Court had discretion to dismiss or not to dismiss the suit depending on whether sufficient cause is shown or not, while under the present rule there is no such discretion vested in Court. In my view the position is actually to the contrary.

2. Under the said rules, the Court's discretion was limited to sufficient cause being shown and if it was not shown the suite has to be dismissed. As against this the present rule only provides that the suit shall be placed on board for dismissal but it does not provide as to what is to happen thereafter. In my view the Court will, therefore, have a wider discretion now than before and the Court is not bound to dismiss the suit.

3, Application is rejected, particularly, in view of the fact that the summons for judgment is now taken out, even before the matter could be notified for being placed on board for dismissal.

4. In view of the fact that the summons for judgment has been taken out after such delay, unconditional leave to defend. Suit transferred to the list of long causes. Written Statement within 8 weeks, Usual orders for discovery and inspection.

5. Ordered accordingly.