

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

NOTICE OF MOTION NO.283 OF 2015
IN
APPEAL NO.653 OF 2014
IN
COMPANY APPLICATION NO.586 OF 2014
IN
COMPANY PETITION NO.376 OF 2002

M/s.Sundeeep Polymers (P) Limited Applicant

In the matter of :

M/s.Sundeeep Polymers (P) Ltd. Appellant

versus

M/s.Bhansali Eng. Polymers Limited Respondent

Mr.Dilip Nivatia, Director of Applicant in person for Applicant.
Mr.B.N.Shukla i/by N.V.Shukla for Respondent.

CORAM : MOHIT S. SHAH, C.J. AND
B.P.COLABAWALLA, J.

DATE : 4 March 2015

PC :

The Notice of Motion is taken out by M/s.Sundeeep Polymers (P) Limited. The Motion is taken out in an appeal which was filed by the Applicant against an order or winding-up dated 20 August 2013 of the learned Company Judge directing

to wind-up the Applicant herein. The appeal came to be dismissed by order dated 11 November 2014. The appellant/applicant was given liberty to file an application for review or to take out any other appropriate proceedings.

2. Earlier, on 21 December 2013, the applicant had deposited a sum of Rs.5 lakhs to show its bona fide with a clarification that the applicant will not claim any equities in its favour. After dismissal of the appeal, the original appellant has taken out this Notice of Motion for refund of the amount of Rs.5 lakhs.

3. Learned counsel for the respondent (petitioning creditor) submits that the company has already been ordered to be wound-up and the Official Liquidator has taken possession of the properties of the applicant. In view of the above, if at all any person would get the amount of Rs.5 lakhs, it would be the Official Liquidator of M/s.Sundeep Polymers (P) Limited (under liquidation). The learned counsel for respondent has also placed on record a copy of letter dated 11 February 2015 from the Deputy Official Liquidator of this Court informing the Director of the company in liquidation (applicant herein) about the orders of this Court and appointment of Official Liquidator.

4. Since the company has already been ordered to be wound-up, we are not inclined to pass any order to refund the

amount of Rs.5 lakhs to the applicant (in liquidation). The Notice of Motion is dismissed.

5. We make it clear that liberty, if any, granted by the Division Bench of this Court vide order dated 11 November 2014 will continue for the benefit of the applicant. The applicant will also be at liberty to move the learned Company Judge for review or clarification, particularly with reference to CIN number. If such an application is filed, the learned Company Judge shall deal with the same in accordance with law.

(CHIEF JUSTICE)

(B.P.COLABAWALLA, J.)

MST