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

**COMPANY APPLICATION (L) NO.456 OF 2015
IN
COMPANY PETITION NO. 480 OF 2015**

Dune Edge Foundation ...Applicant/Petitioner
VS
Daman Hospitality Pvt. Ltd. ...Respondent.

**WITH
COMPANY APPLICATION (L) NO.457 OF 2015
IN
COMPANY PETITION NO. 523 OF 2015**

Arctic Ice Foundation ...Applicant/Petitioner
VS
Daman Hospitality Pvt. Ltd. ...Respondent.

**WITH
COMPANY APPLICATION (L) NO.458 OF 2015
IN
COMPANY PETITION NO. 516 OF 2015**

Green Tiger Foundation ...Applicant/Petitioner
VS
Daman Hospitality Pvt. Ltd. ...Respondent.

**WITH
COMPANY APPLICATION (L) NO.459 OF 2015
IN
COMPANY PETITION NO. 476 OF 2015**

M/s Hollow Rock Foundation ...Applicant/Petitioner
VS
Daman Hospitality Pvt. Ltd. ...Respondent.

**WITH
COMPANY APPLICATION (L) NO.460 OF 2015
IN
COMPANY PETITION NO. 522 OF 2015**

M/s Foundation Frame Foundation ...Applicant/Petitioner
VS
Daman Hospitality Pvt. Ltd. ...Respondent.

**WITH
COMPANY APPLICATION (L) NO.413 OF 2015
IN
COMPANY PETITION NO. 479 OF 2015**

M/s First Mountain Trust ...Applicant/Petitioner
VS
Daman Hospitality Pvt. Ltd. ...Respondent.

WITH
COMPANY APPLICATION (L) NO.414 OF 2015
IN
COMPANY PETITION NO. 518 OF 2015

M/s Global Concepts Establishment ...Applicant/Petitioner
VS
Daman Hospitality Pvt. Ltd. ...Respondent.

WITH
COMPANY APPLICATION (L) NO.415 OF 2015
IN
COMPANY PETITION NO. 477 OF 2015

M/s Timoco Invest Trade Ltd. ...Applicant/Petitioner
VS
Daman Hospitality Pvt. Ltd. ...Respondent.

WITH
COMPANY APPLICATION (L) NO.416 OF 2015
IN
COMPANY PETITION NO. 481 OF 2015

Anjuta Aigner Dumnwald ...Applicant/Petitioner
VS
Daman Hospitality Pvt. Ltd. ...Respondent.

WITH
COMPANY APPLICATION (L) NO.417 OF 2015
IN
COMPANY PETITION NO. 475 OF 2015

Marianne Creation ...Applicant/Petitioner
VS
Daman Hospitality Pvt. Ltd. ...Respondent.

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Mr Mayur Khandeparkar a/w Ms Veronica Mohan, Paramjeet Singh i/b FOX
Mandal Partner for the Applicant/Petitioner
Mr Rohan Rajadhyaksha a/w Aniket Nimbalkar & Ram Kakkar i/b AZB & Partners
for the Respondent Co.

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CORAM : S.C. GUPTE, J.
JUNE 25, 2015

P.C. :

The Company Applications seek recall of orders passed by this

Court on 20 March 2015 and restoration of the Company Petitions on file. By this order, this Court had recorded an undertaking of the Petitioner's Advocate to remove office objections within a period of one week. It was directed that failing such removal of objections, the Company Petitions shall without reference to the Court, stand dismissed. It is the case of the Applicants/Petitioners that these objections pertained to the power of attorney filed by the constituted attorney for presenting the Petitions on behalf of the Applicants/Petitioners. The objection was that there was no specific power granted in the power of attorney for filing winding up Petition. It was this office objection, which the Petitioners had to remove in terms of the order of this Court dated 20 March 2015. It is submitted by the Applicants/ Petitioners that after the order was passed, the Advocates of the Petitioners required the constituted attorney to obtain a fresh power of attorney by including the specific power to file winding up Petitions. It is submitted that, accordingly, the constituted attorney requested the Petitioners, who reside outside India at Panama and Germany, as indicated in the Company Applications. It is submitted that the fresh powers of attorney were received by the constituted attorney after the period of compliance; that thereafter the powers of attorney were forwarded for adjudication and stamping and received duly stamped. It is submitted that after the powers of attorney were finally received by the constituted attorney as duly stamped, the present applications for recall of the dismissal order and restoration of the Petitions were moved. It is submitted that in the interest of justice the applications be allowed and the dismissal orders be set aside and the Petitions be restored to file.

2 The applications are opposed by the Respondents. It is submitted by the learned Counsel for the Respondents that the Petitioners' Advocate had submitted an undertaking to this Court with knowledge that the Petitioners' offices were outside India and that in the event fresh powers of attorney were required to be called for in compliance with the office objections, it would take some time. It is submitted that after having submitted a solemn undertaking to this Court, the Petitioners ought not to be granted any latitude by setting aside orders of dismissal and restoring the Petitions to file. It is submitted that there is no reason indicated in the affidavits in support of the applications that fresh powers of

attorney were received on the dates they were. It is submitted that as a result of dismissal of the Petitions, an important right has accrued in favour of the Respondents, which should not be interfered with except for a good cause shown.

3 It is true that having regard to the fact that in case removal of office objections required the Petitioners' Advocate to obtain fresh powers of attorney from the Applicants/Petitioners, who are residing outside India, obtaining of such powers of attorney would have required some time. Therefore, the Advocates ought not to have undertaken removal of office objections within a period of one week. The undertaking to remove office objections within one week appears to have been submitted rather casually, but that is not to say that for this lack of diligence on the part of the Advocate, the Petitioners should suffer. The Petitioners obviously reside outside India at Panama and Germany and if the powers of attorney were received from the Petitioners after expiry of the period provided in the self operative orders, that appears to be a reasonable excuse in not removing the office objections within the period reserved or soon thereafter till filing of the present Company Applications. The Petitioners cannot be non suited only on the ground that the powers of attorney could not be received by the Petitioners' Advocate within the original prescribed period of one week. In that view of the matter, the Applicants have made out a case for non removal of office objections within the period reserved by this Court in its order dated 20 March 2015 without any fault on their part. The Applications are, accordingly, made absolute in terms of prayer clauses (a) and (b). The Applicants shall remove the office objections and get the Petitions numbered within a period of one week from today. Place these Petitions along with Company Petition No.343 of 2015 and other connected matters for directions on 3 July 2015.

(S.C.GUPTE J.)