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

**COMPANY APPLICATION NO.16 OF 2014  
IN  
COMPANY PETITION NO. 219 OF 2013  
WITH  
COMPANY PETITION NO. 219 OF 2013**

Sandeep Steels ...Applicant/Petitioner

VS

Pragmatic Infrastructure Pvt. Ltd. ...Respondent

.....

Mr Siddharth Murarka i/b Law Chamber of Siddharth Murarka for the  
Petitioner

Mr T.J.Pandian i/b Pooja Saxena for the Respondent

.....

**CORAM : B. P. COLABAWALLA J.  
AUGUST 11, 2016**

**P.C. :**

After this matter was argued for some time, the parties  
have agreed that the following order be passed by consent:-

- (i) It is agreed that the proceedings before 63<sup>rd</sup> Metropolitan Magistrate Court, Andheri being CC No.3433/SS/2015 shall be withdrawn by the Petitioner herein upon payment of a sum of Rs.13,54,417/- ( i.e. Rs.8,08,072.00 + interest @ 18 % per annum from 9 December 2012 till 11 August, 2016). This amount of Rs.13,54,417/- shall be paid by the Respondent Company to the Petitioner on or before 13 September, 2016 either by '**Demand Draft**' or through RTGS;
- (ii) The Petitioner herein has also filed a suit in Bombay City Civil

Court at Dindoshi being Suit No.680 of 2013 for a recovery of its dues as claimed in the present Company Petition. It is agreed between the parties that an amount of Rs.13,54,417/- shall be treated as settled between the parties and the Petitioner shall reduce the principal claim made in the said suit being Rs.21,25,520/- to Rs.13,17,448/- and shall calculate the interest amount accordingly and shall file an affidavit of the said calculations before the said Court at Dindoshi after realization of the amount stated in clause (i) above;

(iii) It is clarified that this amount of Rs.13,54,417/- shall not be disputed by the parties in any manner whatsoever and suit shall exclude this amount and shall be appropriated against bill No.91 dated 12 April, 2010 for Rs.4,49,009 and bill No.009 dated 3 May, 2010 for Rs.3,59,063/- along with the interest and the same shall be treated as settled and compromised. The Petitioner shall not be entitled to interest from the due dates of the bills till the date of return of the cheques;

(iv) All contentions of the parties are kept open and this order shall not affect any claims or contentions of any parties except as stated herein above and the said suit before the Bombay City Civil Court at Dindoshi shall be decided on its own merits and without being influenced by any observations made in this order. It is clarified that this order shall not preclude the Petitioner from claiming interest at the rate of 36 % per annum on the balance claim

as set out herein above;

- (v) The learned advocate appearing on behalf of the Respondent Company states that all the facts necessary to decide the dispute between the parties have not been set out either in this Petition or in the suit filed in the Bombay City Civil Court at Dindoshi. This is vehemently refuted by the learned counsel appearing on behalf of the Petitioner. Be that as it may, if the Respondent Company is of the opinion that all facts have not been properly disclosed, the Respondent Company is at liberty to make an application for amendment of its Written Statement before Dindoshi Court. If and when such a application is made, the same shall be decided by the said Court on its own merits and uninfluenced by any observations made herein;
- (vi) In the event, the Respondent Company fails to make payment of the sum of Rs.13,54,417/- on or before 13 September, 2016, then this Company Petition shall stand revived, admitted and made returnable on 25 October, 2016;
- (vii) The learned Counsel appearing for the Respondent Company waives service of the Company Petition under Rule 28 of the Companies (Court) Rules, 1959;
- (viii) In the event the Company Petition stands admitted, the Company Petition shall be advertised in two local newspapers viz. (i) **Free Press Journal** (in English) and (ii) **Navshakti** (in Marathi) as also in (iii) **Maharashtra**

**Government Gazette.** Any delay in publication of the advertisement in the Maharashtra Government Gazette and any resultant inadequacy of notice shall not invalidate such advertisement or notice and shall not constitute non-compliance with this direction or with the Companies (Court) Rules, 1959;

- (ix) In such an event the Petitioner shall, on or before 23 September, 2016 deposit a sum of Rs.10,000/- towards publication charges with the Prothonotary and Senior Master, under intimation to the Company Registrar, failing which the Company Petition shall stand dismissed for non-prosecution without further reference to the Court. After the advertisements are issued, the balance, if any, shall be refunded to the Petitioner.

2 The Company Petition is disposed of in the aforesaid terms with liberty to the Petitioner to apply in the event the Respondent Company makes default in making payments as ordered earlier. In view of the fact that the Company Petition itself is disposed of, nothing survives in the Company Application and the same is disposed of accordingly. No order as to costs.

( B. P. COLABAWALLA J. )