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

**NOTICE OF MOTION NO.702 OF 2016 IN
APPEAL NO.203 OF 2016 IN
COMPANY PETITION NO.376 OF 2014**

Jitendra D. Vora ... Applicant

In the matter between

Mr. Jitendra D. Vora ... Appellant

Versus

M/s. Shree Sai Oto Tube Mills Ltd. ... Respondent

WITH

**NOTICE OF MOTION NO.709 OF 2016 IN
APPEAL NO.202 OF 2016 IN
COMPANY PETITION NO.372 OF 2014**

Manish D. Vora ... Applicant

In the matter between

Manish D. Vora ... Appellant

Versus

M/s. Shree Sai Oto Tube Mills Ltd. ... Respondent

Mr. Mayur Khandeparkar a/w Mr. Mayur Agre i/by Ms. Divya Sanghavi
for the Appellant/ Applicant.

Mr. Darins Shroff, Senior Counsel a/w Mr. Neerav B. Merchant i/by
Thakordas Madgavkar for the Respondents in both matters.

**CORAM : A.S. OKA &
A.A. SAYED, JJ.**

DATE : 11th JULY, 2016

P.C.

1 Heard the learned counsel appearing for the Applicant and
the learned counsel appearing for the Respondent Company. The

appeals against orders dismissing Company Petitions for winding up have been admitted. There are two affidavits filed on record by the Respondent Company contending that the assets of the Company have been mortgaged to Canara Bank and the documents evidencing mortgage have been annexed to the affidavit of Shri Jayprakash M. Vyas, Managing Director of the Respondent Company dated 16th April, 2016. The learned Senior Counsel appearing for the Respondent Company states that as far as mortgaged assets are concerned, there is no question of creating any third party rights. However, he submits that the registered office of the Company does not belong to the Respondent Company and it is owned by one of the Directors. However, we find that though a specific prayer for injunction is made in both the Notices of Motions in respect of the said office, no such plea is raised in both the affidavits filed by the Respondent.

2 Hence, we dispose of the Notices of Motions by passing the following order :-

ORDER

- (i) There will be interim injunction restraining the Respondent Company from parting with possession and/or from creating any third party interests of whatsoever in respect of all its immovable assets

pending the final disposal of the Appeal. There will be a similar interim injunction in respect of movable assets restraining the Respondent Company from transferring or creating third party rights till the disposal of the Appeal except in ordinary and usual course of its business. We make it clear that this relief will be operative in relation to the registered office of the Company at Borivali (W), Mumbai, the factory at Bhuj in Gujarat and other immovable property of the Company;

(ii) We grant liberty to the Respondent Company to apply in the event the Respondent Company desires to create any third party rights or desires to part with possession of the said property;

(iii) Notices of Motions are disposed of on above terms.

(A.A. SAYED, J)

(A.S. OKA, J)