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

COMPANY APPLICATION NO.787 OF 2015
IN
COMPANY PETITION NO.610 OF 2008

Sateesh L. Huded	...Applicant
V/s.	
M/s.Leo Shipping Pvt. Ltd.	...Respondent

Mr.Mayur Joshi i/b V.S. Legal Associates for the Applicant.

None for the Respondent.

CORAM : R.D. DHANUKA, J.
DATE : 31ST MARCH, 2017.

P.C. :-

1. Leaned counsel appearing for the applicant states that the respondent is served. The applicant has already filed affidavit of service.
2. By this company application, the applicant seeks permission to withdraw the amount deposited by the respondent along with interest as per the order dated 24th April, 2009 passed by this Court.
3. By an order dated 24th April, 2009, the Division Bench of this Court had set aside the order passed by the learned single Judge permitting the applicant herein to withdraw the amount of

Rs.5,00,000/- deposited by the respondent before the Prothonotary & Senior Master of this Court. It was however, made clear that the said deposit is subject to the civil suit, if any, that would be filed by the applicant herein.

4. Learned counsel appearing for the applicant invited my attention to the decree passed by the learned Joint Civil Judge, Senior Division, Thane on 19th January, 2012 in Special Civil Suit No.542 of 2009 filed by the applicant against the respondent. He submits that the said decree has not been impugned by the respondent till date. The statement is accepted.

5. Since the Civil Court has already passed a decree in favour of the applicant and since the deposit made by the respondent was subject to the result of the civil suit by the said order passed by the Division Bench of this Court dated 24th April, 2009, I am inclined to accept the prayer of the applicant permitting the applicant to withdraw the said amount with interest. It is however, made clear that if the said decree is set aside in any appeal, if already preferred or if preferred in future, the applicant would deposit the said amount in this Court with such rate of interest as this Court may deem fit.

6. The applicant shall give credit of the amount allowed to be withdrawn with interest against the decretal amount to the respondent.

7. The company application is made absolute in terms of prayer clauses (1) and (2).

(R.D. DHANUKA, J.)