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

COMPANY PETITION NO.309 OF 2015

Amarjit S. Azad	...Petitioner
V/s.	
M/s.Shamvik Glasstech Pvt. Ltd.	...Respondent

Mr.Vishal kanade i/b Mr.D.A. Bhalerao for the Petitioner.

Ms.Pallavi Bali i/b Bali Associates for the Respondent.

CORAM : R.D. DHANUKA, J.
DATE : 24TH FEBRUARY, 2017.

P.C. :-

1. Learned counsel appearing for the respondent, on instructions, agrees to deposit a sum of Rs.3,00,000/- in this Court within four weeks from today. The statement made by the learned counsel on behalf of his client is accepted as an undertaking to this Court. The respondent has no objection if the petitioner is allowed to withdraw the said amount upon the petitioner filing an undertaking before this Court, that if the petitioner files any other proceedings which the petitioner proposes to file for recovery of the alleged dues and fails in that proceedings, the petitioner shall return the said amount to the respondent. The statement is accepted.

2. Mr.Kanade, learned counsel for the petitioner states that

his client is ready and willing to furnish such undertaking before this Court within one week from the date of depositing the amount in this Court. The statement as and by way of undertaking is accepted by the Court.

3. It is made clear that if the respondent does not deposit the amount within the time prescribed, the company petition to stand admitted and shall be advertised in two local newspapers, namely (i) Free Press Journal (in English) and Navshakti (in Marathi) as also in the 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.

4. In that event, the company application shall be made returnable after eight weeks after the date of such admission. The petitioner shall deposit Rs.10,000/- towards publication charges with the Prothonotary & Senior Master, under intimation to the Company Registrar, within two weeks from the date of admission, failing which the petition shall stand dismissed for the non-prosecution without further reference to the Court. After the advertisements are issued, the balance, if any, shall be refunded to the petitioner.

5. In that event the service of the petition under Rule 28 of

the Companies (Court) Rules, 1959 shall be deemed to have been waived.

6. If the respondent deposits the amount as undertaken aforesaid, the petitioner would be at liberty to withdraw the said amount upon furnishing an understanding to this Court that in the event of the petitioner filing any appropriate proceedings for recovery of the amount against the respondent and fails in such proceedings, the petitioner shall return the said amount to the respondent.

7. It is made clear that all the contentions of the parties raised in this proceedings are kept open. It is further made clear that the claims of the petitioner in the subsequent proceedings would not be restricted to the claim of Rs.3,00,000/-. It is also made clear that if the amount is not deposited by the respondent in this Court within the time stipulated aforesaid, the petitioner would be entitled to pursue this proceedings for the entire amount.

8. The company petition is disposed of in aforesaid terms. No order as to costs.

(R.D. DHANUKA, J.)