

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

**COMPANY APPLICATION (LODG.) NO. 559 OF 2017
IN
COMPANY PETITION NO. 421 OF 2016**

Metalmeccanica Fracasso India Private Limited .. Applicant

In the matter between :

Naresh Steels Industries Pvt. Ltd. .. Petitioner

Vs.

Metalmeccanica Fracasso India Private Limited
& Anr. .. Respondents

Ms. Deepti B. Mistry a/w. Ms. Mansi Jani i/b Panindia Legal for
applicant/original respondents.

Mr. Jai Shah i/b Law Frame for respondent/original petitioner.

Mr. Mahendhar Aithe, company prosecutor for official liquidator present.

**CORAM : K.R.SHRIRAM, J.
DATE : 1ST NOVEMBER 2017**

P.C.

1 At the outset, Ms. Mistry for applicant-original respondent seeks leave to amend the application. Leave granted. The proposed amendment is taken on record and marked 'X' for identification. The amendment to be carried out before the end of this week.

2 The application made today is to direct the official liquidator, who is appointed as Provisional Liquidator, to restore possession to the company,

symbolic possession of which was taken on 26th October 2017. According to applicant, who is respondent in the company petition, clause (iii) of paragraph 4 of the order dated 12th September 2017 provides as under :

“4

(iii) The Petitioner shall, within a period of two weeks from today, deposit an amount of Rs.10,000/- (Rupees Ten Thousand only) with the Prothonotary and Senior Master of this Court towards publication charges with intimation to the Company Registrar, failing which the Company Petition shall stand dismissed for non-prosecution.”

2 The counsel for applicant states that petitioner did not comply with this direction of depositing Rs.10,000/- with office of the Prothonotary and Senior Master, High Court, Bombay within two weeks provided and accordingly the petition got dismissed for non-prosecution.

3 The counsel appearing for petitioner agrees that this amount of Rs.10,000/- has not been deposited till date and despite communications sent to petitioner he is not receiving any instructions. The counsel states that petitioner has failed to comply with the directions given in Paragraph 4(iii) of the order dated 12th September 2017.

4 It is correct that the petition got dismissed for non-prosecution by a self operative order passed on 12th September 2017 and therefore, the appointment of Provisional Liquidator also came to an end and

consequently Provisional Liquidator could not have taken symbolic possession on 26th October 2017.

5 In the circumstances, Provisional Liquidator is directed to restore possession to respondent-company and communication in that regard to be addressed during the course of this week.

6 Application disposed.

Notwithstanding disposal of the application, all office objections to be removed and application to be numbered within two weeks.

(K.R. SHRIRAM, J.)