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***IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION***

***CRIMINAL APPLICATION NO.233 OF 2018
IN
CRIMINAL WRIT PETITION NO.4889 OF 2014
WITH
CRIMINAL WRIT PETITION NO.4889 OF 2014***

Manoj C. Balakrishnan ...Applicant/Petitioner

Versus

State of Maharashtra and Ors. ...Respondents

Mr.V.D.Upadhyay, for the Applicant/Petitioner.

Mrs.P.P.Shinde, A.P.P for the Respondent-State.

Mr.Niranjan Mundargi, for the Respondent No.3.

***CORAM : R. M. SAVANT &
REVATI MOHITE DERE, JJ.***

DATE : 17th JULY, 2018

P.C. :

1. The above Criminal Application has been filed for defreezing of the Account of Shree Rajlaxmi Properties Pvt. Ltd., being Account bearing No.061010200016083 in the Axis Bank, Dhiraj Baug, Thane (West) Branch, Thane.

2. It seems that the First Informant i.e. the Respondent No.3 and

the Applicant, who is concerned with the said Shree Rajlaxmi Properties Pvt. Ltd., were engaged in Arbitration Proceedings being Arbitration Petition No.204 of 2013, in which an application was filed under Section 9 of the Arbitration and Conciliation Act, 1996. In the said application an order came to be passed by a learned Single Judge of this Court (Coram:N.M.Jamdar, J.). In which order the statement made on behalf of the Respondents in the said Arbitration Proceedings i.e. the Applicant herein came to be recorded that an amount of Rs.5 crores will be returned with interest at the rate of 15% p.a. and that such amount would be paid by the Respondents within two weeks. It is an undisputed position that an amount of Rs.7,18,75,000/- has been returned to the Respondent No.3 as evidence by the letter dated 14th March, 2014 of the Applicant to the Respondent No.3, which is annexed at Exhibit – 'C' on page 33 to the above Criminal Application.

3. Having regard to the said fact, the learned counsel for the Respondent No.3 Mr.Niranjan Mundargi fairly states that the Respondent No.3 has no objection to the Criminal Application being allowed in terms of prayer clause (a) i.e. the Account mentioned in the said prayer clause (a) be

defreezed. However, the same would be without prejudice to the rights and contentions of the Respondent No.3 in the Arbitral proceedings.

4. In view of the said statement and having regard to the facts which have been adverted to herein above, the above Criminal Application is required to be allowed and is accordingly allowed and made absolute in terms of prayer clause (a). It is clarified that the statement made by the learned counsel as recorded herein above would be without prejudice to the rights and contentions of the Respondent No.3 in the Arbitral proceedings.

5. The above Criminal Application is accordingly disposed of. The E.O.W. Unit – 2, Mumbai, is directed to defreeze the Account of the Applicant in the Axis Bank, Dhiraj Baug, Thane (West) Branch, Thane, on an authenticated copy of the instant order produced before it.

6. Criminal Writ Petition No.4889 of 2014 to stand de-tagged.

(REVATI MOHITE DERE, J.)

(R. M. SAVANT, J.)