

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

**COMPANY APPLICATION (L) NO.122 OF 2018
IN
COMPANY PETITION NO.97 OF 2014**

Mahindra and Mahindra Financial
Services Limited ..Applicant

IN THE MATTER BETWEEN

POSCO-India Pune Processing Centre Private
Limited ..Petitioner

Versus

Poonja Tools Pvt. Ltd.
and The Official Liquidator, High Court Bombay. ..Respondents

Ms. Priya Crasto, for the Applicant.

Mr. Darshan R. Mehta a/w Ms. Krithika Anand i/byh M/s. Dhruve
Liladhar and Co., for the Original Petitioner.

Mr. Prabhakar M. Jadhav, for Ex-directors.

Mr. Mahendhar Aithe – Company Prosecutor for Official Liquidator
present.

**CORAM : K. R. SHRIRAM, J.
DATE : 28th MARCH, 2018**

PC.

1] This application is for leave under Section 446 of the
Companies Act, 1956 to continue with the arbitral proceedings pending
before the sole Arbitrator and to add respondent no.2 as party.

2] Mr. Prabhakar M. Jadhav, counsel appearing for the Ex-
directors of the company (in liquidation) states that their appeal against
the order of winding up of the company has been heard and reserved for

orders.

3] Ms. Priya Crasto, counsel appearing for applicant states that if the appeal is allowed, the order passed allowing this application will be a mere order on paper, but if the appeal is dismissed, then applicant will have to come again to this Court for leave. Ms. Priya Crasto submits that if leave is granted today, no prejudice will be caused to any party and if leave is not granted today, applicant will have to incur further cost.

4] I have thoughtfully considered submissions made by the counsels and also the affidavit in support of the application. First of all, it is to be noted that there is no affidavit opposing the application. Secondly, if the appeal is allowed by granting leave, no prejudice will be caused to any party. If leave is not granted, applicant will have to apply again to this Court and this Court will have to rehear the matter.

5] In the circumstances, leave granted in terms of prayer clause (a), which reads as under :-

“(a) That the leave be granted to the Applicant under Section 279 of the Companies Act, 2013 to continue with the Arbitral proceedings pending before the Sole Arbitrator against M/s. Poona Tools Pvt. Ltd. (in Liquidation) and its directors, by adding the Respondent No.2 as party thereto.”

6] The application accordingly stands disposed.

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

8] Ms. Priya Crasto states that for completion of record, applicant will give a copy of the application and affidavit in support to Mr. Prabhakar M. Jadhav.

9] All to act on an authenticated copy of this order.

[K. R. SHRIRAM, J.]