

psv

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

**APPEAL NO.212 OF 2018
IN
COMPANY PETITION NO.488 OF 2016
WITH
NOTICE OF MOTION NO.441 OF 2018**

E-Land Apparel Limited

...Appellant

Vs.

V. M. Yarns Private Limited

...Respondent

Mr.Surel Shah i/b. Mr.Ashish Mishra for Appellant.

Mr.Jitendra Jain with Mr.Sumit Raghani i/b. Agrud Partners for Respondent.

**CORAM : NARESH H. PATIL AND
G.S. KULKARNI, JJ.**

DATE : 31st JULY 2018

P.C.:

This appeal is directed against the order dated 27th February 2018 passed by the learned Single Judge whereby exercising jurisdiction under Sections 433(e) read with Section 434(1)(a) of the Companies Act 1996, it was directed that the winding up petition be admitted with further consequential directions to advertise the petition. However, in doing so, in paragraph 5 of the impugned order, the learned Single Judge was inclined to grant one opportunity to the appellant to avoid winding up by making deposit of Rs.1 Crore with the Prothonotary &

Senior Master of this Court within two weeks. On deposit of the said amount it was directed that the petition will stand disposed of with liberty to the respondent/petitioner to take such appropriate proceedings as advised.

2. By an order dated 23rd March 2018, we recorded a statement as made by the learned Counsel for the appellant that the appellant would deposit Rs.1 Crore in this Court as directed by the learned Single Judge. Accordingly, the appellant has deposited the said amount of Rs.1 Crore on 18th May 2018 with the Prothonotary & Senior Master.

3. As the amount has now been deposited, the question of any further adjudication of this appeal would not arise. Also in terms of the directions of the learned Single Judge, the pending company petition No.488 of 2016 would stand disposed of with liberty being available to the respondent/petitioner to take appropriate proceedings. The respondent/petitioner is accordingly at liberty to take appropriate proceedings which be adopted within a period of six weeks from today. In the event a suit is filed in this Court within the aforesaid period, against the appellant company, in that case, on filing of such suit, the amount be transferred to the suit account.

4. Keeping all contentions of the parties open, the appeal stands disposed of in the above terms. No costs.

5. In view of disposal of appeal, nothing survives in notice of motion No.441 of 2018. It is disposed of accordingly.

[G.S. KULKARNI, J.]

[NARESH H. PATIL, J.]