

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
NOTICE OF MOTION NO. 298 OF 2018
IN
APPEAL (L) NO.115 OF 2018
IN
CONTEMPT PETITION NO.2 OF 2017
IN
COMPANY PETITION NO.77 OF 2015**

Hemraj Devkarandas Metals & Minerals Ltd. & Anr	..Applicants
In the matter of	
Vijendra Vijayraj Ranka & Ors	..Appellants
Vs.	
Hemraj Devkarandas Metals & Minerals Ltd. & Anr	..Respondents

Mr. Sanjay Dubey with Ms Ankita Upadhyay i/b Omer Khaiyam Shaikh for the Applicants
Mr. Anil Agarwal for the Respondent No.1
Mr. R. M. Pethe AGP for the Respondent State

**CORAM :R. M. SAVANT, &
SARANG V. KOTWAL,JJ
DATE : 16th APRIL, 2018**

P.C.

1 The above Notice of Motion has been filed by the Applicants who is the original Respondent No.1 in the above Appeal, which has been filed against the order passed by the Learned Single Judge convicting the Appellants for for having committed contempt of the order dated 8-8-2016. By the said order, the Company Petition was disposed of in terms of the Consent Terms dated 8-8-2016 drawn between the parties evidencing the settlement between the parties.

2 Suffice it would be to state that the amount payable by the Appellants to the Respondents i.e. the Applicants herein was totally quantified at Rs.25 lakhs which was to be paid in installments in terms of the table which is appearing in paragraph 2 of the Consent Terms. It is an undisputed position that after the payment of first two installments i.e. Rs.2,00,000/- and Rs. 1,00,000/- by RTGS, no further installments were paid resulting in the Applicants filing the Contempt Petition in this Court which Contempt Petition came to be allowed and the Applicants herein came to be convicted. The above Appeal has been admitted by us on 20-3-2018, however prior thereto we by our order dated 9-3-2018 had directed the Appellants to deposit the amount of Rs.22,00,000/- as per the Consent Terms along with the interest calculated @ 15% p.a. within one week. The Appellants had accordingly deposited the amount of Rs.27,22,500/- which is inclusive of the amount of Rs.22,00,000/- i.e. the balance outstanding amount and interest of Rs.5,22,500/- up to 9-3-2018.

3 The above Notice of Motion has now been filed by the Applicants for being permitted to withdraw the amount of Rs.27,22,500/-. The Learned Counsel for the original Appellants seeks to raise an issue as regards the entitlement of the Applicants to the interest of Rs.5,22,500/- on the ground that the interest is embedded in every installment for the period covering the

last installment to the next installment and therefore the Applicants are not entitled to withdrawal of the interest.

4 Prima facie we are not impressed by the said submission as we had directed the payment of interest in view of the fact that there was a willful and deliberate default on the part of the Appellants to pay further installment after the payment of first two installment by RTGS. However, since the Appellants has raised an issue as regards the entitlement of the Applicants to the interest of Rs.5,22,500/- or even to a part of it, we deem it appropriate to make the above Notice of Motion absolute in terms of prayer clause (a) to the extent that the Applicants would be paid over an amount of Rs.22,00,000/- towards satisfaction of the Consent Terms. In so far as the interest component of Rs.5,22,500/- is concerned, we direct the office to invest the same in a fixed deposit of a Nationalised Bank initially for a period of one year to be renewed thereafter for a period as the registry deems it appropriate. The said amount of interest would be subject to the final orders that would be passed in the above Appeal.

5 The Learned Counsel Mr. Agarwal fairly states that in view of the instant order, he agrees to compound the case filed under Section 138 of the Negotiable Instruments Act which is pending in the court of Learned Metropolitan Magistrate, Borivali, Mumbai. Statement accepted.

6 The above Notice of Motion is accordingly allowed in the
aforesaid terms and is disposed of.

7 The parties to act upon an ordinary copy of this order duly
authenticated by the Court Associate.

[SARANG V. KOTWAL, J]

[R.M.SAVANT, J]