

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

**NOTICE OF MOTION NO.1245 OF 2017
IN
APPEAL NO.580 OF 2002**

Shabari Dayamoy @ Dayamay @ Daya Mai Roy	...	Applicant
 In the matter between		
Union of India and ors.	...	Appellants/ Org. defendants
 V/s.		
Drawel Engineering (India) Pvt. Ltd.	...	Respondent/ Org. plaintiff

Ms. Anita Castellino with Mr.Vikas K. Singh i/by M/s Lambay and Co. for the Applicant.
Mrs. Jyotsna Pandi with Ms.Nisha Valani for the Respondent.

**CORAM : A.S.OKA AND M.S.SONAK, JJ.
DATE : AUGUST 29, 2018.**

P.C. :

1. Heard the learned counsel appearing for the applicant. The Applicant is the daughter of one Mr. Dayamoy @ Dayamay @ Daya Mai Roy, who was the Managing Director of the respondent-company.
2. The present appeal is preferred by the defendants against a

money decree in a suit filed by the respondent. Appeal was admitted by order dated 11th March 2002. While directing the appellants to deposit the decretal amount, this Court granted a liberty to the respondent-plaintiff to withdraw the decretal amount on furnishing security to the satisfaction of the Prothonotary and Senior Master of this Court. Accordingly, a security of a flat described in prayer clause (a) of this notice of motion was offered by the respondent-company, which was accepted by the Prothonotary and Senior Master. Apart from the said security, other security in the form of National Saving Certificates was also accepted. The applicant is claiming relief of impleadment as a party in the Appeal or seeking permission to intervene. The other substantive prayer in the present notice of motion is for release of the flat and the National Saving Certificates.

3. As far as the applicant is concerned, she has no locus as she is claiming to be a shareholder being a legal representative of deceased Managing Director of the respondent-company. The respondent-company is still in existence and the respondent-company will be entitled to oppose the appeal. If in law the

applicant is entitled to represent the respondent-company, she can always do so. However, she has no locus either to intervene or to get herself impleaded.

4. As regards the discharge of security of the flat and National Savings Certificates, against the said security, under the orders of the Court, the respondent-company has withdrawn the decretal amount deposited by the appellants in the appeal. Therefore, order of discharge of the security cannot be passed. At highest, respondent will be entitled to apply for furnishing some other security to the satisfaction of the Prothonotary and Senior Master of this Court.

5. Therefore, subject to what is observed above, no relief can be granted in the notice of motion and the same is dismissed.

(M.S.SONAK, J.)

(A.S.OKA, J.)

.....

Priya Rajesh
Soparkar

Digitally signed by
Priya Rajesh Soparkar
Date: 2018.09.26
11:49:58 +0530