

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

**COMPANY APPLICATION NO.301 OF 2017
IN
COMPANY PETITION NO.175 OF 1994**

Futura Polysters Ltd.)....Applicant

IN THE MATTER BETWEEN :

M/s.Ganan Industrial Sales & Services Pvt.Ltd.)....Petitioner
And

Futura Polysters Ltd.)....Respondent

Mr.S.H.Bohra for applicant.
None for respondent.

CORAM : K.R.SHRIRAM,J
DATE : 27.2.2018

P.C.:-

1 This application is for a direction to the Prothonotary & Senior Master to refund the sum of Rs.10,36,000/- with interest in view of settlement between the parties.

2 When the petition came up for admission on 8.1.2016, the company offered to secure the petitioner's claim by giving a bank guarantee in the sum of Rs.10,36,000/- in favour of Prothonotary & Senior Master and keep the bank guarantee alive till the disposal of Suit No.3148 of 1995 and Suit No.4308 of 1995. Upon furnishing the bank guarantee, petition came to be disposed.

3 The bank guarantee was renewed from time to time. It is stated in paragraph-4 of the affidavit in support that both the suits have been settled and consent terms have been filed in 2015. Strangely, no steps were taken to file this application earlier. In the meanwhile, Prothonotary & Senior Master passed an order dated 2.5.2017 whereby the bank guarantee came to be invoked and the Union Bank of India paid the amount of Rs.10,36,000/- to the Prothonotary & Senior Master vide its letter dated 29.4.2016.

4 Mr.Bohra for the applicant states that affidavit of one Shreekant V.Kawankar affirmed on 7.8.2017 is filed in the registry and hands over a photo copy thereof along with office copy of letter dated 3.1.2018 filing the affidavit of service in the registry. The same are taken on record and marked 'X (colly)' for identification.

5 Petitioner is not present to oppose the application. No affidavit in reply opposing the application has been filed. In the circumstances, the relief as sought in prayer clause-(c) is granted and the same reads as under :-

“(c) The office of the Prothonotary & Senior Master, High Court, Bombay be directed to refund the sum of Rs.10,36,000/- with interest in view of the settlement between the parties.”

6 The refund be paid over to the applicant company.

Application disposed.

7 All to act on an authenticated copy of this order.

(K.R.SHRIRAM,J)