

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

**COMPANY APPLICATION NO. 412 OF 2018
IN
COMPANY PETITION NO. 497 OF 2015**

Madhumilan Industries Ltd.

... Applicant/Petitioner

V/s.

Dastun Fashion Ltd.

... Respondent

Mr. Manish Bohra I/b A.S. Khan & Asso. for the Applicant/Petitioner
None for Respondent.

**CORAM : K.R. SHRIRAM, J.
DATE : 03rd OCTOBER, 2018**

P.C.:

. This application is to wind up the company, appoint provisional liquidator and also commence contempt proceeding against Respondent and its Directors in view of breach committed by Respondent Company of the undertaking given to this Court as recorded in the Consent Terms dated 01.02.2018 read with order dated 01.02.2018.

2 Mr. Manish Bohra states that only three installments mentioned in clause 2 totaling to Rs.2,10,000/- has been paid and the balance in excess of Rs.20 lakhs has not been paid. Mr. Bohra therefore, prays that the petition be restored to file and the company be ordered to be wound up. At the same time, Mr. Bohra states

that the National Company Law Tribunal ('NCLT'), Mumbai Bench has admitted petition under Sections 8 and 9 of Insolvency and Bankruptcy Code as per the order dated 07.05.2018 in CP No. 625/I&BP/2018 and therefore, moratorium has set in. Mr. Bohra seeks liberty of this Court to file appropriate proceeding in NCLT and also lodge claim with the Resolution Professional. Liberty granted. NCLT/RP shall consider the application in accordance with law.

3 In the Consent Terms filed and taken on record on 01.02.2018, Respondent Company has given an undertaking to pay the balance amount of Rs.23,57,949/-. The undertaking has been breached. Mr. Bohra states that copy of this application has been served upon the Respondent and undertakes to file affidavit of service during the course of this week. Despite service, Respondents are not present. Therefore, the Registry to issue notice to Respondent Company Dastun Fashion Limited and all its Directors to show cause as to why they should not be held guilty to contempt of this Court for breach of undertaking given to this Court. Notice be made returnable on 30.11.2018.

4 Application accordingly disposed.

(K.R. SHRIRAM, J.)