

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

**NOTICE OF MOTION NO.1071 OF 2018
IN
APPEAL NO.568 OF 2016
IN
ARBITRATION PETITION NO.463 OF 2013**

M/s. NBCC (India) Ltd. ..Applicant

IN THE MATTER BETWEEN

Omnibus Industrial Development Corporation ..Appellant

Versus

M/s. NBCC (India) Ltd. ..Respondent

Mr. Sanskar Marathe, Advocate for the Applicant.

Mr. Shrishailya Deshmukh, Advocate for the Respondent.

**CORAM : PRADEEP NANDRAJOG, C.J. &
N. M. JAMDAR, J.**

DATE : 18th JULY, 2019

P.C.

1] Two awards were pronounced against the Appellant - Omnibus Industrial Development Corporation and in favour of M/s. NBCC (India) Ltd.. Two Petitions under Section 34 of the Arbitration and Conciliation Act, 1996 were filed challenging the two Awards. The Petitions were dismissed.

2] Two Appeals under Section 37 of the Arbitration and

Conciliation Act, 1996 were filed in which execution was stayed upon the condition that Omnibus Industrial Development Corporation should deposit the decretal amount in the Court.

3] In one Appeal, the decretal amount was deposited. In the other, the decretal amount was not deposited.

4] Both Appeals were dismissed on account of delay in filing Appeals not being condoned.

5] The amount deposited in this Court in one Appeal was permitted to be withdrawn by M/s. NBCC (India) Ltd. vide order dated 24th October 2016.

6] In the Notice of Motion, M/s. NBCC (India) Ltd. states that the Registry has released the amount which was deposited by Omnibus Industrial Development Corporation. Prayer made is that the interest which accrued on the deposit should also be paid to the Applicant.

7] We see no reason why the interest which accrued on the deposit be not paid to the Applicant for the reason the decretal amount deposited would accrue to the benefit of the Applicant upon the Appeal being dismissed.

8] There being no positive assertion of a positive fact that the

amount deposited was invested in a deposit bearing interest, we dispose of the Notice of Motion directing that if the decretal amount which was deposited by the Judgment Debtor was invested in a deposit bearing interest, the interest which accrued on the deposit would be paid to the Applicant by the Registry.

N. M. JAMDAR, J

CHIEF JUSTICE