

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

SUIT NO. 4202 OF 1996

State Bank of India .. Plaintiff

Vs.

M/s. Literate Wear
& Ors. .. Defendants

**ALONG WITH
INTERIM APPLICATION NO. 1 OF 2019
IN
SUIT NO. 4202 OF 1996**

Dilip Himatlal Shah .. Applicant/Third Party
Guarantor

In the matter between :

State Bank of India .. Plaintiff
Vs.

M/s. Literate Wear
& Ors. .. Defendant

And

Dilip Himatlal Shah .. Applicant/Third Party
Guarantor

Vs.

Court Receiver .. Respondent

Mr. Monarch Sheth a/w. Mr. Pranav Parikh i/b M/s. Vora & Associates
for applicant in IA/1/2019.

Mr. Ajay B. Malvankar, Section Officer a/w. Mr. Ajay Tiwari from the
Court Receiver office.

CORAM : N.J. JAMADAR, J.

DATE : 11TH FEBRUARY 2020

P.C.

INTERIM APPLICATION NO. 1 OF 2019

1. Heard the learned counsel for the applicant.

2. This interim application is preferred by the applicant-third party guarantor, who had furnished a Bank Guarantee bearing Bank Guarantee No. 485/1998 dated 11th April 1998 for Rs.7,66,403/-, in pursuance of the order passed by this Court on 5th November 1997 in Suit No.4202/1996 to provide security deposit for the movables hypothecated with the plaintiff-State Bank of India. The said suit came to be subsequently transferred to Debt Recovery Tribunal-III, Mumbai on 28th November 2000 in the recovery proceedings being Recovery Proceeding No.198/2006 instituted by State Bank of India to execute the decree passed in OA No.3520 of 2000. The parties arrived at a settlement. The plaintiff-Bank submitted an application on 31st December 2013 seeking liberty to withdraw the recovery proceedings No.198/2006 as the plaintiff-bank had received the entire settlement amount. The learned Recovery Officer, passed an order and permitted the State Bank of India to withdraw the recovery application and the recovery proceedings thus stood closed.

3. The applicant-third party guarantor, who had furnished the bank guarantee, has now moved this application for returning the original bank guarantee.

4. The Section Officer of the Court Receiver Mr.Malvankar states that by order dated 29th March 2010, the Court Receiver stood discharged by the Debt Recovery Tribunal and all the accounts were settled.

5. As the dispute between the plaintiff and the defendant appears to have been settled and the proceedings before the Debt Recovery Tribunal stood closed pursuant to the settlement, there is no impediment to return the original bank guarantee to the applicant/third party guarantor.

6. Hence the following order :-

O R D E R

- (i) The original Bank Guarantee No.485/1998 dated 11th April 1998 be returned to the applicant/third party guarantor, in accordance with the Rules.
- (ii) The interim application stands disposed of.

[N.J. JAMADAR, J.]