

**M/S NAHAR INDUSTRIAL ENTERPRISES LTD VS M/S LUXMI
NARAIN SHYAM LAL**

Present: Mr. Aalok Jagga, Advocate with
Ms. Bhagyashri, Advocate
for the petitioner.

Mr. Paras Sharma, Advocate for
Mr. M.K. Garg, Advocate
for the respondent.

[1]. It appears from the record that CM No.383-CII of 2016 has not been decided while disposing of CR No.6485 of 2015. On 13.10.2015, following order was passed by the Coordinate Bench:-

“Prayer in the present application is to prepone the date of hearing of the case from 19.10.2015 to today, as the execution proceedings are pending before the court below for tomorrow, i.e. 14.10.2015 and the bank account of the petitioner has been attached.

In the case in hand, money decree has been passed against the petitioner. Learned counsel for the petitioner submitted that out of the earlier amount, a sum of Rs.1,50,000/- was deposited in this Court, which is still lying deposited with the Registrar General. Let the remaining decretal amount be also deposited in this Court by tomorrow.

In case, the amount deposited in this Court and receipt thereof is furnished before the court below, learned court below shall adjourn the hearing in the execution proceedings to a date after the date fixed in the present petition.

CM stands disposed of.”

[2]. An amount of Rs.1,50,000/- was deposited in the High Court. Prayer was made in the aforesaid application that the said amount be retained as principal amount along with interest in the shape of FDR which was earlier deposited in CR No.3372 of 2014 and the said amount be transferred in CR No.6485 of 2015 as per order dated 13.10.2015 passed by the Coordinate Bench. The aforesaid application could not be taken up and the main revision petition came to be decided on 31.10.2018, thereby relegating the petitioner to approach the Lower Appellate Court as the impugned order was appealable in terms of Order 43 Rule 1(d) CPC. The amount deposited in the registry was ordered to be disbursed to the Lower Appellate Court.

[3]. As a consequence of aforesaid order, the amount deposited in CR No.6485 of 2015 was sent to the Lower Appellate Court, but the amount of Rs.1,50,000/- deposited in CR No.3372 of 2014 was neither considered in the present revision petition, nor sent to the Lower Appellate Court.

[4]. In the order dated 21.10.2015 passed by the Coordinate Bench in CR No.3372 of 2014, it was observed that since the revision petition was allowed on 04.02.2015, therefore, amount of Rs.1,50,000/- lying deposited with the registry of the High Court be released. It could not be brought on record

whether such amount was released or not.

[5]. Learned counsel for the applicant states that the aforesaid amount lying deposited in the shape of demand draft is still lying with registry, but the validity period of demand draft has also expired. Learned counsel prays for withdrawal of the aforesaid demand draft with a liberty to get the same re-validated and thereafter, deposit the same with the Lower Appellate Court in pursuance of order dated 31.10.2018 and order passed in CR No.3372 of 2014.

[6]. Keeping in view the aforesaid facts, I deem it appropriate to allow the petitioner to approach the registry and after obtaining the copy of demand draft, get the same re-validated and thereafter, deposit the same with the Lower Appellate Court where the appeal filed by the petitioner in pursuance of order dated 31.10.2018 is pending. Let the needful be done within a period of three weeks from the date of receipt of certified copy of this order. The additional amount over and above Rs.1,50,000/- already deposited by the petitioner, vide FDR No.316411 dated 04.08.2014 be also released to the Lower Appellate Court, where the appeal is statedly pending.

July 19, 2019
Prince

(RAJ MOHAN SINGH)
JUDGE