

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
COMPANY APPLICATION NO. 530 OF 2018
IN
COMPANY PETITION NO. 277 OF 2000

Nilesh Bhupatrai Ajmera **Applicant**

IN THE MATTER BETWEEN

Nilesh Bhupatrai Ajmera **Petitioner**

VERSUS

Shree Bhagwan Fabrics Ltd. **Respondent**

Ms.Namita Shirke, i/b. Mr.Jaydeep J. Thakkar for the Applicant.

None for the Respondent.

CORAM : R.D. DHANUKA, J.

DATE : 16th JANUARY, 2020

P.C.

Learned counsel for the applicant states that the respondent is already served and tenders affidavit of service. Affidavit of service is taken on record. No affidavit in reply is filed by the respondent.

2. By this application, the applicant seeks release of the bank guarantee in the sum of Rs.1,00,000/- issued by the applicant pursuant to the order dated 30th August,2000 passed by this court in Company Petition No. 277 of 2000 which was filed by the applicant against the respondent company. By the said order, the applicant was permitted to withdraw a sum of Rs. 1,00,000/- upon furnishing bank guarantee. The applicant had complied with the said order passed by furnishing the bank guarantee and thereafter filed a civil suit bearing no. 9126 of 2000

before the City Civil Court against the respondent. Learned counsel for the respondent invited my attention to the decree passed by the City Civil Court dated 27th April, 2017 decreeing the said suit in favour of the applicant and holding that the applicant is entitled to retain the said amount of Rs.1,00,000/- already withdrawn by the applicant and the bank guarantee produced by the applicant to be discharged. Learned counsel submits that the said decree has not been impugned by the respondent and has attained finality. The applicant has made out a case for grant of relief in terms of prayer clause (a). It is ordered accordingly.

3. Office is directed to return the original bank guarantee furnished by the applicant pursuant to the said order dated 30th August, 2000 passed in Company Petition No. 277 of 2000 to the applicant within two weeks from today.

4. Office to act on the authenticated copy of this order.

5. Company application is disposed of in the aforesaid terms. No order as to costs.

[R.D.DHANUKA, J.]