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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO.372 of 2018

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The Bengal Mill Stores Supply Company ... Petitioner

V/s.

Dolphin Offshore Enterprises (I) Ltd. ... Respondent

Mr. Nitesh Bhutekar with Mr. Aniket Nangare for the
petitioner.

Ms. Geeta Lundwani with Mr. Amey Nadwale for the
respondent.

CORAM : AMIT BORKAR, J.

DATED : AUGUST 23, 2023

P.C.:

1. The writ petition arises out of rejection of notice of motion to restore earlier notice of motion for restoration of summary suit for recovery of amount of Rs.55,65,000/-.

2. Learned advocate for the respondent No.1 invited my attention to the order passed by the National Company Law Tribunal, Mumbai in Interlocutory Application No.665 of 2022 approving resolution plan submitted by M/s. Deep Industries Limited has been approved. In view of approval of resolution plan, civil proceedings for recovery of the amount against defendant No.1 cannot be proceeded. The said issue is covered by the judgment of the Apex Court in case of **Ghanshyam Mishra and**

Sons Private Limited vs. Edelweiss Asset Reconstruction Company Limited reported in 2021 SCC OnLine SC 313.

3. In view of the said development, it is not necessary to adjudicate upon the rights of the petitioner. However, it is made clear that in case after the conclusion of proceedings before the National Company Law Tribunal, Mumbai, it is found that right to sue survives against defendant No.1, plaintiff would be at liberty to revive the proceedings, if permissible in law.

4. The civil writ petition stands disposed of. No costs.

(AMIT BORKAR, J.)