

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

INTERIM APPLICATION NO. 6512 OF 2025
IN
SUMMARY SUIT NO. 1327 OF 2003

COTTOR INTERNATIONAL)...APPLICANT
V/s.
NATIONAL INDUSTRIAL CORPORATION)
AND OTHERS)...RESPONDENTS

Mr.Dinesh P. Guchiya, Advocate for the Applicant.

Mr.Abdullah Shaikh i/by Mr.Ashok M. Saraogi, Advocate for the Respondents.

CORAM : ABHAY AHUJA, J.

DATE : 17th FEBRUARY 2026

PC. :

1. As noted in order dated 14th January 2026, this Interim Application seeks release and return of bank guarantee furnished by the Applicant/Plaintiff on the ground that no written statement has been filed by the Respondents/Defendants.

2. On 14th January 2026, learned Advocate appearing for the Respondents had sought time to take instructions and if necessary file reply.

avk

1/5

ARTI
VILAS
KHATATE

Digitally signed
by ARTI VILAS
KHATATE
Date:
2026.02.17
20:35:44 +0530

3. Today when the matter is called out, once again time is being sought and no reply is being filed. The non-filing of the reply clearly indicates the lackadaisical attitude of the Respondents in attending to this matter and this Court is of the view that the same need not detain this Court from hearing the matter.

4. Mr.Dinesh Guchiya, learned Counsel, appears for the Applicant / Plaintiff and submits that the Applicant (original Plaintiff) is a partnership firm and the Respondents (original Defendants) are also a partnership firm. That, prior to 2000-2001, the Applicant had given friendly loan to the Respondents as both were known to each other and due to non-payment of the loan amount and interest, the Applicant filed a Summary Suit for recovery of Rs.8,82,622/-. That, after hearing the Summons for Judgment No.460 of 2004 in the Suit, the Summons for Judgment was made absolute and the judgment signed in favour of the Applicant and the Suit was decreed on 27th September 2005. That, thereafter, the Respondents filed Appeal No.1082 of 2005 and after hearing, the appeal was admitted on 1st December 2005 subject to deposit of Rs.6,00,000/- within a period of six weeks, which were deposited by the Respondents. By the said order, the Applicant was permitted to withdraw the said amount of Rs.6,00,000/- subject to

security. The Applicant furnished a bank guarantee of Rs.6,00,000/- of Indian Overseas Bank and after withdrawal of the amount, kept renewing the bank guarantee every year and the said bank guarantee was last renewed in March 2025, but since the Respondents viz. the original Defendants have not moved the Court for filing of the written statement, this Court may discharge the Applicant of the obligation to renew the bank guarantee and release the bank guarantee forever and return the same to the Applicant.

5. Although no reply has been filed on behalf of the Respondents / original Defendants, a perusal of the Appellate Court order dated 1st December 2005 indicates that the appeal has been allowed after setting aside the order making the Summons for Judgment absolute and granting conditional leave to the Defendants to defend the Suit, subject to deposit of Rs.6,00,000/- within a period of six weeks and that the Plaintiff was given liberty to withdraw the said amount on furnishing security to the satisfaction of Prothonotary & Senior Master of this Court with an undertaking that in the event the Suit is dismissed, the amount would be restituted along with 6% interest per annum. That, upon deposit of the amount within the time, the Suit to stand transferred to the list of commercial causes and be proceeded with

accordingly. It was only if the amount was not deposited within time, that the appeal would be treated as dismissed and the Plaintiff would be entitled to execute the decree as per the order dated 27th September 2005.

6. As has been submitted on behalf of the Applicant / original Plaintiff that the amount of Rs.6,00,000/- had been deposited in terms of the order of the Appellate Court and the amounts have also been withdrawn by furnishing bank guarantee which has been renewed annually till March 2025, Mr.Guchiya for the Applicant submits that since no written statement has been filed, this Court may direct the Prothonotary & Senior Master of this Court to release and return the bank guarantee.

7. In my view, even if the written statement is not filed, the condition imposed by the Appellate Court for granting conditional leave to the Defendants to defend the Suit, had been complied with, since the amount of Rs.6,00,000/- had been admittedly deposited. The Suit, as per the order of the Appellate Court, upon deposit of the said amount, has stood transferred to the list of commercial causes to be proceeded with accordingly. Merely because no written statement has

been filed, cannot be a reason to release or return the bank guarantee as the Suit is yet to be decided.

8. Therefore, the Interim Application is rejected, however, with a direction to the Prothonotary & Senior Master to list the Summary Suit No.1327 of 2003 before the appropriate Bench under the caption 'for directions' on **18th March 2026** along with a report as to the orders passed in the Suit after the order of the Appellate Court dated 1st December 2005.

9. Let the bank guarantee be continued to be renewed until further orders.

10. The Interim Application, accordingly, stands disposed as above.

(ABHAY AHUJA, J.)