



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
NOTICE OF MOTION (L.) NO.180 OF 2018
IN
APPEAL (L.) NO.97 OF 2018
IN
COMPANY APPLICATION NO.559 OF 2016
IN
COMPANY PETITION NO.892 OF 2014**

Manoj Vyas & Ors.	...Appellants
In the matter between	
Manoj Vyas & Ors.	...Appellants
Versus	
Life Insurance Corporation of India	...Respondent No.1
And	
Varun Global Limited	Respondent No.2

**WITH
NOTICE OF MOTION (L.) NO.464 OF 2018
IN
APPEAL NO.128 OF 2018
IN
COMPANY PETITION NO.892 OF 2014**

Varun Global Ltd.	...Applicant
In the matter between	
Varun Global Ltd.	...Appellant
Versus	
Life Insurance Corporation of India	...Respondent

**WITH
APPEAL (STAMP) NO.97 OF 2018
WITH
APPEAL NO.128 OF 2018
WITH
NOTICE OF MOTION (STAMP) NO.121 OF 2018
WITH
NOTICE OF MOTION (STAMP) NO.398 OF 2018**

Mr.Gaurav Joshi, Senior Advocate, with Mr.Armin Pardiwala, Mr.Jahangir Panday, Mr.Aditya Khandelwal, Mr.Sharique Nachar i/b. Crawford Bayley & Co. for Applicant/Appellant in Appeal No.128/18.

Mr.Ashish Anand with Ms.Siddhi Vora i/b. Nityoah Suneel & Associates for Appellants in Appeal (L.) No.97/18.

Mr.Prakash Shinde I/b. MDP & Partners.

Mr.L.T. Satelkar for Official Liquidator.

**CORAM : NARESH H. PATIL AND
G.S. KULKARNI, JJ.**

DATE : 4th MAY 2018

P.C.:

By an order dated 28th February 2018, a statement was made by the learned Counsel appearing for the appellant on instructions from the Director of Varun Corporation Limited, that an amount of Rs.5 Crores (Rupees Five Crores only) will be deposited within four weeks and shares worth Rs.9,24,19,868/- (Rupees Nine Crores Twenty Four Lakhs Nineteen Thousand Eight Hundred Sixty Eight only) within six weeks from the date of order. The said order was not complied with. Considering the statement made, ad-interim relief was granted in favour of the appellant directing de-sealing of the premises by the Official Liquidator. Statement could not be complied with. The appellant moved this

Court on 16th April 2018. After hearing the learned Counsel for the respective parties, we recorded that a Demand Draft of Rs.3 Crores will be deposited with the Prothonotary & Senior Master of this Court on the date of the order and it was undertaken to deposit Rs.2 Crores with the Prothonotary and Senior Master of this Court by Friday - 20th April 2018. As regards shares, it was submitted that they are frozen by the Central Depository Services (India) Limited. On the basis of the statement made, ad-interim relief was continued subject to compliance and statement made in respect of depositing of Rs.2 Crores by 20th April 2018. The said amount was again not deposited by the appellant by 20th April 2018. On an oral application as made on 2nd May 2018 the appellant sought extension of time, which we refused in the facts of the case, in the absence of an appropriate application on record. The matter was adjourned today on the request of the appellant as a motion was to be circulated before this Court.

2. This motion is therefore moved seeking further extension of time. The learned Counsel for the appellant submits that the Demand Draft was drawn on 25th April 2018 and appellant

shown willingness to deposit Demand Draft with the Prothonotary and Senior Master of this Court.

3. The learned Counsel Mr.Joshi appearing for the appellant submits that there is delay of few days in arranging the amount. In fact, Demand Draft was prepared on 25th April 2018 itself. They thought it fit not to move the Court on the earlier day i.e. 24th April 2018. The learned Counsel for the appellant submits that this Court was not available on 27th April 2018 and the appellant thought it fit to move the motion before the regular Court. Accordingly, they moved. The statement made ought to have been complied with, but due to unavoidable circumstances, and compelling reasons, the appellant could not comply with the directions which were issued by this Court. The premises are now sealed again.

4. The learned Counsel appearing for Insurance Company submits that amount be accepted and the said amount will be allowed to be withdrawn by the respondent.

5. Perused the record. We find that there was considerable delay in complying with the order passed by this Court on 16th April 2018. Still this Court showed indulgence and directed the Prothonotary and Senior Master of this Court to accept part payment granted for the time being and also time was granted for payment of the remaining amount. The appellant ought to have been cautious and diligent enough to comply with the statement made before this Court. Sanctity is attached to the statement which the appellant ought to have known fully. The learned Counsel for the appellant submits that by showing indulgence, the amount be accepted and premises be re-de-sealed.

6. In the facts of the case and considering the submissions advanced, we allow the appellant to deposit the amount by directing the Prothonotary & Senior Master of this Court to accept it, but subject to payment of costs of Rs.1 Lakh which shall be deposited within one week from today with the Maharashtra State Legal Services Authority, High Court, Mumbai, which shall be utilized under the Manodhairya Scheme. As soon as the amount of costs is deposited, the premises shall be de-sealed. The appellant shall also pay the necessary costs to the Official Liquidator to de-

seal the premises again.

7. At this stage, the learned Counsel appearing for the respondents seeks leave to withdraw the amount of Rs.5 Crores as would stand deposited by the appellant with the Prothonotary & Senior Master.

8. The learned Counsel appearing for the appellant submits that OTS proposal has been submitted.

9. We clarify that the Prothonotary & Senior Master may allow the respondent to withdraw the deposited amount. In case the OTS proposal is accepted, the amount which will be withdrawn by the respondents shall be adjusted towards the amount calculated for the one time settlement. If the OTS proposal gets rejected, the adjustment of the amount would be subject to further orders of this Court.

10. Stand over to 20th June 2018 for admission.

[G.S. KULKARNI, J.]

[NARESH H. PATIL, J.]