



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

NOTICE OF MOTION NO. 739 OF 2018

IN

APPEAL (L) NO.78 OF 2017

IN

CHAMBER SUMMONS NO.1819 OF 2016

Fairmacs Shipping & Transport
Services Pvt. Ltd.

... Applicant

In the matter between

Shahi Shipping Ltd. (Formerly SKS
Logistics)

... Appellant

v/s.

Fairmacs Shipping & Transport Services
Pvt. Ltd.

... Respondents

Mr.Sahil D. Salvi a/w. Mr.Samrat Thakkar for the appellant.

Mr. Rahul Narichania, Sr. Advocate a/w. Mr. Sunilkumar Neelambaran
I/b. Mulla & Mulla & CB & C for respondents.

CORAM :NARESH H. PATIL, C.J.
& N.M. JAMDAR, J.

06th March 2019.

P.C.

Heard the learned Counsel appearing for the parties.

2. By this Notice of Motion the Respondents seeking leave to withdraw the amount deposited by the Appellant in this Appeal. Having heard the learned Counsel for the parties at length, we are of the opinion that the Appeal is required to be placed at the bottom of the Daily Board for final disposal. The question would arise of withdrawal of the amount in the meanwhile.

3. Perused the orders passed by the Division Bench of this Court dated 27 October 2016, 13 December 2017 and the order passed by the learned Single Judge of this Court dated 18 January 2018.

4. The learned Single Judge has held that the Appellants are liable to pay certain amounts to the Respondents – Applicants and has proceeded with the Company Petition. Before the Division Bench, in Company Appeal No. 348 of 2016, the Advocate for the Appellant had made a statement that the Appellant would pay the amount in installments. This statement was accepted. The Appellant thereafter, with a change of Advocate, sought to resile from the statement, which the Division Bench refused. This order was not challenged further.



Thereafter, in this Appeal a Division Bench, on 13 December 2017 recorded that the Appellant to deposit an amount of Rs. 26,00,000/- (Rupees Twenty Six Lakhs only) in this Court to show their bonafides.

5. Having considered these orders passed by the Court we are of the opinion that the Respondents/Applicants can be allowed to withdraw the amount subject to an undertaking.

6. Accordingly, the Respondents are allowed to withdraw Rs.26,00,000/- (Rupees Twenty Six Lakhs only) deposited by the appellant on the condition that Director of Company shall submit an undertaking to the is Court that the withdrawal is subject to further orders passed by this Court and the money will be brought back if so ordered. The undertaking be submitted within two weeks.

7. The Notice of Motion stands disposed of.

N.M.JAMDAR, J

CHIEF JUSTICE

L.S. Panjwani, P.S.