

**IN THE COURT OF THE HON'BLE I JUNIOR CIVIL JUDGE
CITY CIVIL COURT AT: SECUNDERABAD**

O.S. No. 1082 OF 2021

Between:

M/s. B & C Estates

...Plaintiff

AND

The Branch Manager,
HDFC Bank Limited,

...Defendant

CHIEF AFFIDAVIT OF PW 1

I, Gosika Naveen S/o. Sri. Gosika Narsimha, aged about 35 years Occ: Assistant Finance Manager of M/s. B & C Estates, A registered partnership firm, having its head office at 5-4-187/3 & 4, IInd Floor, Soham Mansion, M.G.Road, Secunderabad-500003, do hereby solemnly affirm and state on oath as follows:

1. I am the Deponent herein and the Assistant Finance Manager of Plaintiff's firm and having acquaintance of day to day transactions of the Plaintiff's firm and also Defendants bank and as such I am deposing the facts of the case as under.

2. I submit that the Defendant is the banker and the Plaintiff's firm has provided a fixed deposit No. 50300012807712 and the Plaintiff had provided fixed deposit by way of Specific lien bank guarantee for an amount of Rs.9,25,000/-(Rupees Nine Lakhs Twenty Five Thousand Only). The bank guarantee was applied on 20th September 2013 with specific request for validity up to 4th September 2018, accordingly the bank guarantee was issued for the Beneficiary "The Commissioner GHMC Hyderabad" for the said amount vide Bank Guarantee No. 021GT 02132630001 dated 20.09.2013 for Rs. 9,25,000/-(Rupees Nine Lakhs Twenty Five Thousand Only) it is valid up to 04.09.2018.

3. I submit that the bank guarantee has expired and lapsed by passage of time as mentioned in the bank guarantee after 4th September 2018. That the contract of bank guarantee has expired and become null and void after 4th September 2018, and is no longer an enforceable contract. The Bank Guarantee is the contract primarily between the Plaintiff and Defendant and enforceable by beneficiary only during validity period ending on 24-09-2018 and beneficiary has no subsisting right. The Plaintiff and Defendant have no subsisting obligations after 24.09.2018.

4. I further submit that amount of fixed deposit kept with Defendant bank is no longer available for the purpose of Lien for bank guarantee, as the main contract of bank guarantee has expired and rendered unenforceable. The bank has no right of any lien over the fixed deposit any more. The Plaintiff has demanded the refund of the fixed deposit held by the Defendant upon which the Defendant does not have any lien any more after the expiry of the bank guarantee. In spite of several demands and representations in writing to the Defendant and the Defendant have failed to refund the amount of the fixed deposit kept as Lien against the expired bank guarantee. The Plaintiff has cancelled the lien over the fixed deposit in Defendant bank favor and has made the fixed deposit free of all the charges and Liens. The Plaintiff hereby cancels the Lien in favor of the bank in respect of the fixed deposit kept against the bank guarantee issued under the reference and hence the same is not enforceable by the bank anymore.

5. I further submit that during the several demands made by the Plaintiff, The Plaintiff should provide letter of indemnity, inspite the fact that the bank guarantee is no longer in force, and being in urgency for the funds to get release from the fixed deposit in the Defendant bank and the Plaintiff was compelled to issue such an indemnity which was not a requisite and legitimate demand on the part of the Defendant, But, for the satisfaction of Defendant the Plaintiff also furnished the Indemnity on 30th of December 2019 which has been received under acknowledgement by the Defendant. The Plaintiff already furnished copy of occupancy certificate dated 23.12.2017 to the Defendant as issued by the GHMC in favour of the Plaintiff.

6. I Submit that the Defendant has denying and refusing to release the fixed deposit amount kept as Lien by the Plaintiff herein. The act of Defendant bank in withholding the fixed deposit of the Plaintiff amounts are in contrary and illegal and the Plaintiff got issued a letter dated 20.09.2019 to the Defendant by cancelling the bank guarantee and the same was received by the Defendant on 20.09.2019. In this regard the Plaintiff got issued the legal notice dated 07.02.2020 calling for the Defendant to remit the bank guarantee amount of Rs. 9,25,000/- (Rupees Nine Lakhs twenty five thousand only). Together with interest of 18% per annum till the date of realization, holding the Defendant bank responsible for all cost and consequences. The Defendant got received the notice by way of email on the same day, but the Defendant failed to comply the same and hence the Plaintiff has no other alternative except filing the present suit for recovery of the bank guarantee amount of Rs. 9, 25,000/- (Rupees Nine Lakhs Twenty Five Thousand Only) together with

interest @ 18% per annum from the date of 05.09.2018 till the realization of the bank guarantee.

I therefore pray that this Hon'ble Court may be pleased to pass a decree and Judgment against the defendant and in favour of plaintiff by granting the following relief's sought herein, to pass decree and Judgment for bank guarantee amount of Rs. 9,25,000/-(Rupees Nine Lakhs Twenty Five Thousand Only) together with interest @ 18% per annum from 05.09.2018 to till the date of realization of the bank guarantee, award the cost of the Suit and to grant such other relief or relief's as this Hon'ble Court deems fit and proper under the circumstances of the case in the interest of the justice.

The following documents may be marked as exhibits on behalf of the Plaintiff “

SL.NO	DATE	PARTIES	DESCRIPTION OF DOCUMENTS
01	20.09.2013	Plaintiff/Defendants	Bank Guarantee confirmation letter
02	20.09.2013	-do-	Copy of Bank Guarantee No.021GT 02132630001 for Rs. 9,25,000/-
03	20.09.2019	-do-	Office copy of cancellation of bank guarantee
04	30.12.2019	-do-	Copy of Indemnity
05	07.02.2020	-do-	Office copy of the legal notice
06	11.02.2020	-do-	Postal receipt no RN190065756IN
07		-do-	Email conversation
08	23.12.2017	-do-	Copy of Occupancy certificate
09	26.02.2018	-do-	Copy of Occupancy certificate
10	04.10.2018	-do-	Copy of Occupancy certificate
11.	10.11.2022	Plaintiff	Original Authorization letter

Solemnly sworn and signed before
Me on this the 30th day of November,
2022 at Secunderabad.

DEPONENT

Identified by Sri. Chandra Shekar

IN THE COURT OF THE HON'BLE
I JUNIOR CIVIL JUDGE :CITY CIVIL
COURT
AT: SECUNDERABAD

O.S. No. 1082 OF 2021

Between:

M/s. B & C Estates
...Plaintiff

AND

The Branch Manager
HDFC Bank
...Defendant

CHIEF EXAMINATION
AFFIDAVIT OF PW:1

Filed on: 30.11.2022

Filed by: Counsel for Plaintiff

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**IN THE COURT OF THE HON'BLE I JUNIOR CIVIL JUDGE::CITY CIVIL COURT
AT: SECUNDERABAD**

I.A.NO. OF 2022
IN
O.S. No. 1082 OF 2021

Between:

M/s. B & C Estates

...Petitioner/Plaintiff

AND

The Branch Manager,
HDFC Bank Limited,

...Respondent/Defendant

AFFIDAVIT

I, Gosika Naveen S/o. Sri. Gosika Narsimha, aged about 35 years Occ: Assistant Finance Manager of M/s. B & C Estates, A registered partnership firm, having its office at 5-4-187/3 & 4, IInd Floor, Soham Mansion, M.G.Road, Secunderabad-500003, do hereby solemnly affirm and state on oath as follows:

1. I am the Deponent herein and the Assistant Finance Manager of Plaintiff's firm and having acquaintance of day to day transactions of the Plaintiff's firm and also Defendants bank and as such I am deposing the facts of the case as under.

2. I submit that the Managing Partner of the Plaintiff firm initiated the above suit against the Respondent/Defendant and the Managing Partner here by authorized me being a Assistant Finance Manager to represent and give the evidence on behalf of the Plaintiff's firm and also sign all relevant documents pertaining to the above mentioned case filed against the Respondent/Defendant which is pending before this Hon'ble Court.

I, therefore, pray that this Hon'ble Court may be pleased to permit me to verify and sign the proceedings in the above suit on behalf of the Plaintiff's Firm and in the interest of justice.

Sworn and signed before me
on this the 30th day of November, 2022
At Secunderabad.

DEPONENT

ADVOCATE / SECUNDERABAD

**IN THE COURT OF THE HON'BLE I JUNIOR CIVIL JUDGE
CITY CIVIL COURT AT: SECUNDERABAD**

O.S. No. 1082 OF 2021

Between:

M/s. B & C Estates A partnership firm,
Authorized Rep Gosika Naveen S/o. Sri. G.Narsimha,
aged about 35 years, office at 5-4-187/3 & 4,
IInd Floor, Soham Mansion, M.G.Road,
Secunderabad-500003.

...Petitioner/Plaintiff

AND

The Branch Manager,
HDFC Bank Limited,
Ground Floor, Usha Kiran Complex,
S D. Road, Secunderabad.

...Respondent/Defendant

PETITION FILED UNDER RULE 32 OF C.R.P.

For the reasons stated in the accompanying affidavit, it is therefore, prayed that this Hon'ble Court may be pleased to permit me to verify and sign the proceedings in the above suit on behalf of the Plaintiff's Firm and pass such other order or orders as this Hon'ble Court may deems fit and proper under circumstances of the case in the interest of justice.

SECUNDERABAD
DATE: 30 .11.2022

COUNSEL FOR PETITIONER

IN THE COURT OF THE HON'BLE
JUNIOR CIVIL JUDGE::CITY CIVIL
COURT
AT: SECUNDERABAD

I.A.NO. OF 2022
 IN
O.S. No. 1082 OF 2021

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...Petitioner/Plaintiff

AND

The Branch Manager
HDFC Bank
...Respondent/Defendant

PETITION FILED UNDER RULE
32 OF C.R.P.

Filed on: 30/11/2022

Filed by: Counsel for Plaintiff
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