

Manasi Sales Pvt. Ltd ... Petitioner

New Phaltan Sugar Works Ltd ... Respondent

CORAM : R.G.KETKAR, J.
DATE : 18th NOVEMBER, 2015

Heard Mr.Sanjay Kshirsagar, learned Counsel for the petitioner and Mr.G.H.Keluskar, learned Counsel for the respondent at length.

1/3

full payment after 2017-18 i.e. post such rehabilitation of the company as per the judgment of Hon'ble Delhi High Court in the matter of M/s.Continental Carbon India Limited Vs. M/s.Modi Rubbers Limited.

3. Mr. Kshirsagar submits that the petitioner had instituted Special Civil Suit No. 218 of 2003 in the Court Civil Judge, Senior Division, Satara. The Suit was decreed on 21/08/2004 and the respondent is directed to pay Rs.6,89,203/- to the petitioner with interest @ 18% p.a. from the date of the Suit till realization of the decretal amount. In pursuance of this decree, the petitioner has filed Darkhast proceedings. As the scheme is now sanctioned and in view of the decision of the Division Bench of this Court in the case of *Madalsa International Ltd. Vs. Central Bank of India, 1998(1) Mh.L.J.666*, Section 22 of the Sick Industrial Companies (Special Provisions) Act, 1986 (for short 'S.I.C.A') will not apply to execution. He further submits that petitioner will exercise option provided either under Clause 14 or Clause 10(v) of the scheme as sanctioned on 24/09/2013 before the Executing Court.

4. As against this, Mr.Keluskar submitted that Section 22 of the S.I.C.A applies even to the Execution proceedings.

5. The learned Counsel appearing for the parties submit that the Petition may be disposed of by keeping all the contentions open and in case of any difficulty, liberty may be reserved to the

petitioner to revive this Petition. In view thereof, Petition is disposed of in the following terms.

- i) The petitioner is permitted to exercise option either in terms of Clause 14 or Clause 10(v) of the scheme sanctioned on 24/09/2013 before the Executing Court.
- ii) The contention whether Section 22 of the S.I.C.A. applies to the Executing Court or not is kept open. The Executing Court will consider this contention and pass appropriate order.
- iii) Liberty is reserved to the petitioner either to apply for revival of this Petition or to challenge the order of the Executing Court, in case it is adverse to it.

6. Rule is disposed of accordingly with no order as to costs.

(R.G.KETKAR, J.)