

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
COMPANY PETITION NO. 82 OF 2015

M/s. Kumara Shipping and Logistics ... Petitioner

Versus

Fourcee Infrastructure Equipments Pvt. Ltd. ... Respondent

Mr. Junani a/w. Mr. Kunal Mehta, Mr. S. Iyer i/b. Ganesh and Company for the Petitioner.

Mr. A. Dasgupta i/b. Jhangiani and Narula & Associates for the Respondent.

Mr. Vinay Sing, Director of the Respondent, present in person.

CORAM : S.J. KATHAWALLA, J.

DATED : 17TH MARCH, 2015

P.C.

1. Heard the learned Advocates appearing for the parties and the following order is passed by consent :

i. The Director of the Respondent Company is present in Court. He agrees and undertakes to pay an amount of Rs.1,30,00,000/- to the Petitioner in full and final settlement of the claim of the Petitioner against the Respondent, as follows :

Rs. 43,33,333.33/- on or before 25th March, 2015

Rs. 43,33,333.33/- on or before 25th April, 2015

Rs. 43,33,333.33/- on or before 25th May, 2015

ii. The Director of the Company further agrees and undertakes to

get a NOC from the Shipping Line in respect of ground rent and / or storage charges on or before 25th March, 2015 and also issue a letter of indemnity to the Petitioner indemnifying them from any claim raised against them by the Shipping Line in respect of the subject ground rent and / or storage charges etc. in future.

iii. The above undertakings are accepted.

iv. Upon payment of the first, second and third installment set out in clause (i) above, the Petitioner shall provide NOC to release 33, 33 and 34 containers respectively.

v. Upon payment of the entire amount as agreed in clause (i) above, the parties shall have no claim against each other.

vi. The Respondent Company has agreed that in the event of the Respondent Company committing default in payment of any of the instalment as undertaken in Clause (i) hereinabove or in getting the NOC from the Shipping Line as undertaken in clause (ii) above, the Company Petition shall without reference to this Court revive, stand admitted, made returnable within six weeks from the date of default and advertised in two local newspapers i.e. Free Press Journal (in English) and Navshakti (in Marathi) and in the Maharashtra Government Gazette. The Petitioner shall deposit an amount of Rs.10,000/- with the Prothonotary and Senior Master of this Court towards publication charges, within two weeks from

the date of default, with intimation to the Company Registrar failing which the Petition shall stand dismissed for non prosecution. In the event of such default the Official Liquidator shall forthwith stand appointed as provisional Liquidator and shall immediately take charge of the records as well as the movable and immovable properties / assets of the Company. Notice under Rule 28 of the Companies (Court) Rules, 1959 shall also stand waived on behalf of the Company.

vii. The Company Petition is accordingly disposed of.

(S.J. KATHAWALLA, J.)