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

COMPANY APPLICATION (LODG.) NO. 337 OF 2015
IN
COMPANY PETITION NO. 467 OF 2014

Nimbus Communications Limited .. Applicant

In the matter of :

Laqshya Media Pvt. Ltd. .. Petitioner
Vs.
World Series Hockey Private Limited .. Respondent

Mr.Chirag Balsara a/w. Ms.L.M. Jenkins i/b Juris Consultus for applicant.

Ms.Shoma Maitra i/b Wadia Ghandy & Co. for petitioner.

Ms.Yogini Chauhan, Asstt. O.L. present.

CORAM : K.R.SHRIRAM, J.
DATED : 16TH DECEMBER, 2015

P.C.

1 By an order dated 15.01.2015, the petition against respondent-company was admitted. Pursuant thereto, the petitioner advertised the admission of the petition. The directors of the company were also restrained by an order of injunction from disposing of any of the fixed assets of the Company without seeking prior permission of the Court. Following the said order, the official liquidator went and took symbolic possession of the registered office of the respondent situated on the 5th floor of the Nirvana Premises Co-operative Society Ltd., Nimbus Centre, Oberoi Compex,

Andheri-West, Mumbai 400 053 (referred as 'the said premises'). The applicant has taken out this application to direct the official liquidator to return possession of the said premises. Admittedly, the applicant is the owner of the said premises and not the respondent-company. The counsel appearing for the original petitioner states that the application has to be rejected because the respondent is a wholly owned subsidiary of the applicant with common directors and hence the corporate veil has to be pierced.

2 It is settled law that the entity of the corporation is entirely separate from the shareholders. It bears its own name and has a seal of its own. Its creditors cannot obtain satisfaction from the assets of its members. The liability of the members or share holders is limited to the capital invested by them. Similarly, the creditors of the members have no right to the assets of the corporation. Of course, there are instances where the corporate veil has been pierced but the Courts are also cautious in cracking upon the corporate shell. Broadly stated, where fraud is intended to be prevented, the veil of the corporation is lifted. In the affidavit in reply, there is not even an averment of fraud let alone the petitioner's proving that the respondent has been incorporated to play a fraud on the public.

3 In the circumstances, in view of the admitted position that the premises belong to the applicant and not the respondent-company in liquidation, the application requires to be allowed. The official liquidator states that they have not taken physical possession of the said premises but have taken only symbolic possession.

4 The applicant is at liberty to remove the notice pasted by the official liquidator in the said premises.

5 The company application accordingly stands disposed.

(K.R. SHRIRAM, J.)