

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

COMPANY PETITION NO. 624 OF 2013

Western India Marine Corporation

... Petitioner

Vs.

M/s. Bharati Shipyard Limited

... Respondent

WITH

COMPANY PETITION NO. 126 OF 2014

M/s. Super Tug Offshore Services Pvt. Ltd.

... Petitioner

Vs.

M/s. Bharati Shipyard Limited

... Respondent

WITH

COMPANY PETITION NO. 148 OF 2014

M/s. Labdhi Enterprises

... Petitioner

Vs.

M/s. Bharati Shipyard Limited

... Respondent

WITH

COMPANY PETITION NO. 251 OF 2014

M/s. Darshan Roadlines Pvt. Ltd.

... Petitioner

Vs.

M/s. Bharati Shipyard Limited

... Respondent

WITH

COMPANY PETITION NO. 514 OF 2014

M/s. Kanga and Company Pvt. Ltd.

... Petitioner

Vs.

M/s. Bharati Shipyard Limited

... Respondent

WITH

COMPANY PETITION NO. 577 OF 2014

Arihant Lifters

... Petitioner

Vs.

M/s. Bharati Shipyard Limited

... Respondent

WITH
COMPANY PETITION NO. 764 OF 2014

Chidambaram Shipcare Pvt. Ltd.	... Petitioner
Vs.	
M/s. Bharati Shipyard Limited	... Respondent

WITH
COMPANY PETITION NO. 772 OF 2014

ABC Infra Equipment Pvt. Ltd.	... Petitioner
Vs.	
M/s. Bharati Shipyard Limited	... Respondent

WITH
COMPANY PETITION NO. 814 OF 2014

Usha Martin Limited	... Petitioner
Vs.	
M/s. Bharati Shipyard Limited	... Respondent

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Ms. Sanidha Vedpathak i/b. Maneksha & Sethna for petitioner in CP/624/2013.
Mr. V.K. Ramabhadran , Sr. Advocate a/w. Subra Karmakar for petitioner in CP/126/2014.
Mr. Nalin Shah for petitioner in CP/148/2014.
Mr. Mukesh Pabari for petitioner in CP/251/2014.
Mr. Pradeep Bakhne i/b. Wadia Chandy & Co. for petitioner in CP/764/2014.
Mr. Sairam Subramanian R. i/b. Khaitan & Co. for petitioner in CP/814/14.

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CORAM : S.C. GUPTE, J.
DATE : 14th OCTOBER, 2015.

P.C.:

1. In these 9 petitions, i.e. Company Petition Nos. 624 of 2013, 126 of 2014, 148 of 2014, 251 of 2014, 514 of 2014, 577 of 2014, 764

of 2014, 772 of 2014, 814 of 2014, separate orders were passed by this Court on 10/03/2015 where-under the respondent-company undertook to pay the dues of the respective petitioners in accordance with payment schedules agreed to between the parties. The petitions were disposed of with a self operative order for admission of the petitions in the event of the respondent committing any default in payment.

2. By a further order dated 12/06/2015, this Court varied the payment schedules by giving extension of time to the respondent to make payment of installments due in July, August and September 2015. The order further provided that the balance installments in each of the petitions payable on and from 15/10/2015 shall be paid in accordance with the original schedule provided for in the order dated 10/03/2015. This arrangement was sanctioned by the Court on an express undertaking of the respondent not to seek any further extension of time. Subsequent to this order, an unsuccessful attempt was made on the part of the respondent-company to relieve itself of the commitment to discharge the petitioners dues in accordance with installments provided for in the orders noted above.

3. The respondent-company sought to avoid the self operative part of order dated 10/03/2015 providing for admission of the petitions in the event of default in payment by filing an appeal. The appeal was filed beyond time. The respondent's application for condonation of

delay was rejected by the Appeal Court. The appeals therefore did not survive and the same were dismissed. Between 16/09/2015 and 01/10/2015, there was a stay on the self operative order of 10/03/2015. Immediately after the stay was vacated by the Appeal Court whilst dismissing the appeal on 01/10/2015, the respondent-company duly paid the installment due to the respective petitioners at the earliest opportunity, that is to say, on 05/10/2015, 2nd, 3rd and 4th October being holidays. These payments were duly accepted by the respective petitioners. Further installments due to the respective petitioners on or before 15/10/2015 have also been duly paid by the respondent before the due date.

4. In the premises, the delay of a few days in payment of the installments due on or before 15/09/2015 is condoned and it is directed that the self operative order of admission of the petitions has not come into effect. The respondent-company shall now pay the installments due and payable to each of the petitioners on and from 15/11/2015 in accordance with payment schedules set out in the orders of 10/03/2015.

(S.C. GUPTE, J.)