

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

APPEAL (L) NO.732 OF 2014
IN
COMPANY PETITION NO.509 OF 2013
WITH
NOTICE OF MOTION (L) NO.2729 OF 2014

Kusum Bhandary Construction Pvt.Ltd.	Appellant
versus	
Ultratech Cement Limited	Respondent

Mr.Mayur D. Sapkale and D.S.Sapkale for Appellant.
Mr.Rushil Mathur i/by India Law Alliance for Respondent.
Mr.L.T.Satelkar for Official Liquidator.

CORAM : MOHIT S. SHAH, C.J. AND
B.P.COLABAWALLA, J.

DATE : 10 February 2015

PC :

The appeal is directed against order dated 30 October 2014 of the learned Company Judge ordering winding-up of the Appellant company M/s.Kusum Bhandary Construction Private Limited. The learned Company Judge passed the impugned order because none appeared for the Appellant company at the hearing and no affidavit-in-reply was filed on behalf of the Appellant.

2. At the hearing of the appeal on 15 December 2014, the Respondent herein (Petitioning Creditor) stated that since the Appellant has paid to it the entire amount due and payable, the Respondent's claim did not survive and the Respondent was not interested in prosecuting the winding-up petition. However, since the winding-up order was already passed by the learned Company Judge, the Official Liquidator was directed to take necessary steps for advertising the proposed withdrawal of the winding-up petition and for inviting any objection/claim, if any, against withdrawal of the winding-up petition.

3. Learned Advocate for the Official Liquidator states that in compliance with the above directions, an advertisement was published in two daily newspapers viz. Daily Navshakti and Daily Free Press Journal, however, no claim or objection has been received by the Official Liquidator for the proposed withdrawal of the winding-up petition.

4. At the hearing today, the learned counsel for the Respondent has placed on record the letter dated 1 December 2014 issued by the Respondent confirming and acknowledging receipt of dues of Rs.3,89,556/- through RTGS on 29 November 2014 from the Appellant. The said letter dated 1 December 2014 is taken on record and marked "X" for identification.

5. In view of the above and in view of the fact that outstanding dues of the Respondent has been paid by the Appellant, the appeal is allowed and the Company Petition No.509 of 2013 is dismissed. In view of disposal of Appeal (L) No.732 of 2014 itself, Notice of Motion (L) No.2729 of 2014 does not survive and stands disposed of as such.

6. All parties including Registrar of Companies to act on an ordinary copy of this order duly authenticated by the registry.

(CHIEF JUSTICE)

(B.P.COLABAWALLA, J.)

MST