

In the High Court of Judicature at Madras

Dated: **10.09.2015**

Coram:

**The Honourable Mr.Justice SATISH K. AGNIHOTRI
AND
The Honourable Mr.Justice K.K.SASIDHARAN**

Review Application No.161 of 2014
against O.S.A.No.162 of 2014

K.RA.G. Saravanan

...Review Applicant

- Vs.-

1. Devi Resources Ltd.,
2305, 23/F, CCT Telecom Building
No.11, Woshing Street
Fo Tan Shatin
Hong Kong Rep. By
Power of Attorney
Mr. Alwarappan
4/9, Vyas Complex
Mooker Nallamuthu Street
Parrys
Chennai-600 001.

2. The Official Liquidator
High Court of Madras as the
Provisional Liquidator
of Sri Vishnu Annamalaiyar
Paper Mills Ltd.,

...Respondents

Prayer: Review Application filed under Order XLVII Rule 1 read with Section 114 CPC against the order dated 14.10.2014 in O.S.A.No.162 of 2014 on the file of this Court challenging the order as made in

C.P.No.285/2013 dated 17.4.2014.

For Review
Applicant : Mr.AR.L. Sundaresan
Senior Counsel
for Mr.M. Aravind Subramaniam

For Respondents : Mr. K. Mohanamurali for R.1

ORDER

(Order of the Court was made by **K.K.Sasidharan, J**)

This is an application to review the judgment dated 14 October, 2014 dismissing the Original Side Appeal on the ground that the petitioner has not complied with the conditional order.

2. Heard the learned Senior Counsel for the petitioner and the learned counsel for the first respondent.

3. The appellant filed Original Side Appeal against the order dated 17 April 2014 in Company Petition No.285 of 2013 whereby and whereunder the learned Single Judge was pleased to pass an order under Section 433(3) of the Companies Act, 1956 appointing the Official Liquidator, High Court as the Provisional Liquidator.

4. The Original Side Appeal was entertained by this Court in view of

the contention taken by the petitioner herein that he would pay the entire amount in case reasonable time was given.

5. This Court passed an interlocutory order on 19 August 2014 directing the petitioner to pay a sum of US\$ 10,000/- to the first respondent besides a sum of Rs.50,000/- to the Official Liquidator towards initial expenses. Another order was passed on 22 August 2014, directing the petitioner to pay a sum of US\$ 10,000/- by first week of October 2014, in addition to the amount directed to be paid earlier.

6. When the Original Side Appeal was taken up on 14 October 2014, learned Senior Counsel for the petitioner represented that a sum of US\$ 5,000/- was deposited on 22 August 2014 and another sum of US\$ 5,000/- was deposited on the date of hearing. Since the order was not complied with in its letter and spirit, we have dismissed the Original Side Appeal.

7. Subsequently, the petitioner filed this review petition and made a request to grant reasonable time to pay the remaining amount. In view of the said submission and taking into account the fact that the order appointing Provisional Liquidator would affect the smooth functioning of the establishment, we entertained the review application. Thereafter the

petitioner made substantial payments. The details furnished by the petitioner clearly indicates the substantial payments made subsequent to the judgment dated 14 October 2014.

8. The first respondent filed a counter affidavit indicating that the petitioner paid a sum of US\$ 21,629.44. In case the above payment is taken into account it would show that the petitioner paid a sum of US\$ 237,068.88.

9. The petitioner appears to have paid substantial payment after filing the review application. The matter involves a core question as to whether a Provisional Liquidator should be appointed in spite of making substantial payments by the petitioner. We are therefore of the view that the issue requires to be decided by the learned Single Judge.

10. In the result, the judgment dated 14 October 2014 in O.S.A.No.162 of 2014 is recalled by exercising the review jurisdiction. The order dated 17 April 2014 in C.P.No.285 of 2013 is set aside. It is open to the petitioner and the first respondent to take all contentions before the learned Single Judge.

11. The review application is allowed as indicated above. No costs.

(SATISH K. AGNIHOTRI, J) (K.K.SASIDHARAN, J)
10 September 2015

Index: Yes/no

Tr/

To

The Official Liquidator
High Court of Madras as the
Provisional Liquidator
of Sri Vishnu Annamalaiyar
Paper Mills Ltd.,

**SATISH K. AGNIHOTRI, J
AND
K.K.SASIDHARAN, J**

Tr

**Review Application
No.161 of 2015**

10.9.2015