



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 02.03.2015

CORAM

THE HON'BLE MR.SANJAY KISHAN KAUL, CHIEF JUSTICE
and
THE HON'BLE MR. JUSTICE M.M.SUNDRESH

O.S.A.No.17 of 2015
and
M.P.No.1 of 2015

M/s.Sumukha Industries India Limited,
a Public Limited Company,
having its Registered Office at
BVA, Kala Mansion Buildings,
2nd Floor, 101, E.D.B.Road, R.S.Puram,
Coimbatore-641 002.

..Appellant/Respondent

vs

1.M/s. The Bombay Dyeing & Manufacturing
Company Limited,
rep. by its Vice President - Polyster Division
and Authorised Representative Jai Prakash Rathi,
Nevills House,
J.N.Heredia Marg, Ballard Estate,
Mumbai-400 001.

2.The Official Liquidator,
High Court,
Madras.

..Respondents/Petitioner

Appeal filed under Clause 15 of the Letters Patent read with
Order XXXVI, Rule of Original Side Rules against the order made in
Company Petition No.238 of 2013, dated 18.6.2014.

For Appellant .. Mr.H.Karthik Seshadri

For 1st Respondents .. Mr.C.Seethapathy



J U D G M E N T

(Judgment of the Court was delivered by The Hon'ble Chief Justice)

The appellant has not been able to settle the disputes with the respondent.

2. Learned counsel for the appellant states that he really cannot have any quarrel with the admission of the winding up petition on account of the prima facie opinion that there is a debt outstanding, which is not paid, inclusive of the principal and interest. He, however, submits that in the given facts of the case, the Provisional Liquidator ought not to have been appointed.

3. In our view, the prayer made in the Company Petition is comprehensive enough to cover the requirements of appointment of the Provisional Liquidator, but, it is of course open for the appellant to show causes as to why in the particular order appointing the Provisional Liquidator should be kept in abeyance.

4. Learned counsel for the appellant, thus, submits that he would move an appropriate application before the learned Company Judge for keeping the appointment of the Provisional Liquidator in abeyance. Endorsement has also been made. As per the learned counsel for the respondents, the subsequent enquiry made by the Provisional Liquidator, in fact, given credence to the requirement to appoint the Provisional Liquidator in the present case. Thus, in our view, the matter has to be examined on merits by the learned Company Judge.

5. We, thus, dismiss the appeal as withdrawn with liberty to the appellant to move application in accordance with law, if so advised, seeking to keep the appointment of the Provisional Liquidator in abeyance. No costs. Consequently, M.P.No.1 of 2015 is closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

bbr



TO

The Sub Assistant Registrar (O.S.)
High Court, Madras.

+ 1 cc to Mr.H. Karthik Seshadri, Advocate SR.11357
+ 1 cc to Mr.C. Seethapathy, Advocate SR.11322

O.S.A.No.17 of 2015

AK(CO)
Eu 16.03.15