

The Hon'ble Sri Justice C.V.Nagarjuna Reddy

Company Application No.678 of 2015

Date: 08.04.2015

Between:

Chinnam Nagavenu Venkata Satyanarayana Reddy
..... Applicant

and

M/s.Tata Capital Financial Services Ltd.,
Mumbai and another

...Respondents

Counsel for the applicant: Mr.S.V.Rama Krishna

Counsel for the respondents: -----

The Court made the following:

Order:

This Company Application is filed by the Managing Director of non-applicant No.2 to set aside Order, dated 16-04-2014, in Company Petition No.82 of 2013 and permit non-applicant No.2 to participate in the proceedings of the Company Petition.

By Order, dated 16-04-2014, this Court has ordered winding up of non-applicant No.2- Company. Before the Company Petition was admitted, notice was ordered to non-applicant No.2 to its registered

office address. As the notice was returned unserved, non-applicant No.1 was permitted to serve notice through substituted service by way of publication. Even after such publication, non-applicant No.2 has not entered appearance. Therefore, this Court has admitted the Company Petition.

The notice of admission of the Company Petition was published in the newspapers as per the directions of this Court. Even after such publication, non-applicant No.2 has not entered appearance. The oral evidence on behalf of non-applicant No.1 was recorded. Even then, there was no representation for non-applicant No.2, and hence, it was set *ex parte*.

Thereafter, the winding up Order, dated 16-04-2014, was passed and the Official Liquidator attached to this Court was appointed as the Liquidator of non-applicant No.2- Company. Thereafter, the applicant herein has filed this Company Application for setting aside the above-mentioned winding up order.

In the detailed affidavit filed by the applicant, the alleged fraud committed by one of its former Directors by name Mr.MVS.Ramu has been narrated with documentary proof. This Application was heard in minute detail.

Mr.R.Raghunandan, learned Senior Counsel

appearing for non-applicant No.1, has strongly opposed this Application in the beginning. After a detailed hearing of the case, he has requested for a short adjournment to seek further instructions from his client as to whether, on the facts pleaded and *prima facie* proved by the applicant that fraud was played on him and non-applicant No.2- Company by Mr.MVS.Ramu, his client is willing to give non-applicant No.2 an opportunity to contest the case on merits. Accordingly, the case has been adjourned to today.

Today, at the hearing, Mrs.Shireen Sethna Baria, learned Counsel for non-applicant No.1, in all fairness, communicated the views of her client that it is gracious enough to think that non-applicant No.2 is also a victim of fraud as non-applicant No.1 itself is. The learned Counsel has, therefore, fairly conceded that without prejudice to its contentions to be advanced in the Company Petition against non-applicant No.2, the latter may be given an opportunity to contest the Company Petition on merits.

In the light of the above facts, Order, dated 16-04-2014, in Company Petition No.82 of 2013 is recalled and Company Petition No.82 of 2013 is restored to file. Consequently, the appointment of the

Official Liquidator attached to this Court as the Liquidator of non-applicant No.2 is also set aside and he is relieved from the affairs of non-applicant No.2.

The Company Application is allowed accordingly.

As a sequel, Company Application Nos.127 and 128 of 2015 are disposed of as infructuous.

**(C.V.Nagarjuna Reddy,
J)**

**Dt: 8th April, 2015
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