

HON'BLE SRI JUSTICE C.V.NAGARJUNA REDDY

COMPANY PETITION No.278 of 2015

Date:05.10.2015

Between:

M/s Ronda Infrastructure Pvt Ltd.,
Hyderabad, repled., by its Managing Director-
R.Venkat Rami Reddy

....Applicant

And:

M/s TVR Constructions Pvt Ltd.,
Hyderabad.

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.....Respondent

Counsel for the Applicant: Mr. Vardhineni Krishna Mohan

Counsel for the Respondent: ----

The Court made the following:

ORDER:

This Company Petition is filed for an order to wind up the respondent for non-payment of the debt due to the petitioner.

I have heard Mr. Vardhineni Krishna Mohan, learned counsel for the petitioner and perused the record.

The petitioner pleaded that the respondent, a company

incorporated under the Companies Act, 1956, was awarded work by the Coimbatore City Municipal Corporation and that it has, in turn, entered into a sub-contract with the petitioner, vide agreement, dated 10.01.2011. The petitioner further pleaded the petitioner that though it has executed the work entrusted to it by the respondent in all respects, payment has not been made by the latter and that when a statutory notice was issued by the petitioner, the respondent has replied by stating that it has itself not received the payment from the Coimbatore City Municipal Corporation and that therefore, the payment to the petitioner has not yet fallen due.

The petitioner filed a copy of agreement, dated 10.01.2011. Clause-16 thereof reads as under:

“Payment Terms:

The payment will be made only for the actual quantity executed at site as per agreed terms and conditions within two days from the date of payment credited in main contractors account.”

The above reproduced clause of the agreement in unequivocal terms envisages that the petitioner will be entitled to payment for the actual quantity executed by it within two days from the date of payment credited in the respondent's account. The petitioner has not disputed the respondent's claim that it has so far, not received the payment from the Coimbatore City Municipal Corporation. Therefore, the payment by the respondent to the petitioner has not fallen due so far and the amount claimed cannot be treated as a debt until the respondent received the payment from the Coimbatore City Municipal Corporation.

In this view of the matter, the Company Petition is dismissed, however, with liberty to the petitioner to avail a fresh remedy, in the event, the respondent fails to make payment to it, even after it received the payment from the Coimbatore City Municipal Corporation.

JUSTICE C.V.NAGARJUNA REDDY

05th October 2015

DR

