

THE HON'BLE SRI JUSTICE C.V. NAGARJUNA REDDY

COMPANY PETITION NO.48 OF 2015

DATED:4-8-2015

Between:

M/s. Bhanu Traders
Rep. by its Proprietor Gaurang Kataria
R/o. Subashnagar
Nizamabad
Through its GPA Holder
Amruthlal Kataria

... Petitioner

And

M/s. Sri Lakshmi Narasimha Oil Mills Pvt. Ltd.,
Thatipalli Village, Jagitiyal Mandal
Karimnagar District

... Respondent

... Respondents

COUNSEL FOR THE PETITIONER: Mr. Pratap Narayan Singh

COUNSEL FOR THE RESPONDENT: D. Narender Naik

THE COURT MADE THE FOLLOWING:

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ORDER:

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This company petition is filed for an order of winding up the respondent for non-payment of the debt due to the petitioner.

After hearing, the case was adjourned on 28.7.2015 at the request of the learned counsel for the respondent to advise his client for payment of the admitted amount. Accordingly, today a sworn affidavit of the Managing Director of the respondent has been filed wherein he has stated in paragraph-6 as under:

"Subject to the Respondent accepting and abiding by the aforesaid conditions the respondent is willing to pay as a full and final settlement of all claims and disputes between the parties a sum of Rs.60,00,000/- (Rupees Sixty Lakhs Only) in eight (8) monthly instalments in the following manner:

- a) Rs.10,00,000/- (Rupees Ten Lakhs only) being the first instalment will be paid on or before 04.08.2015;*
- b) Rs.6,25,000/- (Rupees Six Lakhs Twenty Five Thousand Only) will be paid on or before August 31, 2015;*
- c) Rs.6,25,000/- (Rupees Six Lakhs Twenty Five Thousand Only) will be paid on or before September 30, 2015;*
- d) Rs.6,25,000/- (Rupees Six Lakhs Twenty Five Thousand Only) will be paid on or before October 31, 2015;*
- e) Rs.6,25,000/- (Rupees Six Lakhs Twenty Five Thousand Only) will be paid on or before November 30, 2015;*
- f) Rs.6,25,000/- (Rupees Six Lakhs Twenty Five Thousand Only) will be paid on or before December 31, 2015;*
- g) Rs.6,25,000/- (Rupees Six Lakhs Twenty Five Thousand Only) will be paid on or before January 31, 2016;*
- h) Rs.6,25,000/- (Rupees Six Lakhs Twenty Five Thousand Only) will be paid on or before February, 29, 2016;*
- i) Rs.6,25,000/- (Rupees Six Lakhs Twenty Five Thousand Only) will be paid on or before March 31, 2016."*

Mr. Pratap Narayan Sanghi, learned counsel for the petitioner, submitted that since the admitted debt is Rs.65,00,000/- (Rupees sixty five lakhs only), if the respondent pays the said sum his client will withdraw the criminal petitions filed under Section 138 of the Negotiable Instruments Act, 1882 (for short, 'the Act'), however, without

prejudice to the right of his client to recover the interest amount by approaching competent civil court.

Mr. D. Narender Naik, learned counsel for the respondent, on instructions submitted that the balance sum of Rs.5,00,000/- (Rupees five lakhs only) will be paid as additional instalment on or before 30.4.2016. He has further submitted that his client is aware of the fact that if it commits default in payment of any of the amounts agreed in the affidavit, it will be liable for contempt of court.

In view of this offer of the respondent, Mr. Pratap Narayan Sanghi, learned counsel for the petitioner, submitted that his client will withdraw the pending criminal cases under Section 138 of the Act without prejudice to its right to recover the interest amount by filing a civil suit.

Having regard to the above submissions of the learned counsel for the parties and the affidavit filed by the respondent, the company petition is disposed of with liberty to the petitioner to avail the remedy of contempt proceedings in the event the respondent commits default in honouring its commitment made in the affidavit referred to above.

As a sequel to disposal of the company petition, company application No.454 of 2015 shall stand disposed of as infructuous.

C.V. NAGARJUNA REDDY, J

4-8-2015

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