

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

COMPANY APPLICATION Nos.513 and 506 of 2015

in/and

COMPANY PETITION No.22 of 2014

-

31.03.2015

C.P. No.22 of 2014 and C.A.No.506 of 2015:

-

Between:

BASF India Limited

...Petitioner

And

BVR Paper Industries (India) Pvt. Ltd.

...Respondent

Counsel for the petitioner: Mr.Tarun G.Reddy

-

C.A.No.506 of 2015:

Between:

Multiwal Pulp and Board Mills Private Limited, New Delhi

....Applicant

And

BVR Paper Industries (India) Pvt. Ltd. and another

....Respondents

Counsel for applicant: Mr.V.Hariharan

The Court made the following:

COMMON ORDER:

C.P.No.22 of 2014 is filed for an order to wind up the respondent company for nonpayment of the debt, allegedly, due to the petitioner.

The parties are hereinafter referred to as they are arrayed in C.P.No.22 of 2014.

By order, dated 28.07.2014, this Court has admitted the company petition after setting the respondent *ex parte*. However, one Multiwal Pulp and Board Mills Private Limited filed C.A.No.513 of 2015 under Rule 36 read with Rule 9 of the Company (Court) Rules, 1959 (for short 'the Rules') for recalling the order, dated 24.03.2015, and dismissing the company petition. In the said application, it stated that it has taken over the management of the respondent. In the company petition, during one of the hearings, this Court has suggested that the new management may pay Rs.10 *lakhs* to the petitioner towards compensation for retaining the machinery for more than four years by the respondent and allow the petitioner to take back the machinery. This suggestion is agreed to by both the parties. The petitioner has accordingly filed C.A.No.506 of 2015 under Rule 100 of the Rules to permit it to withdraw the company petition with liberty to it to take recourse to appropriate legal measures if needed.

Sri V.Hariharan, learned counsel for M/s. Multiwal Pulp and Board Mills Private Limited – applicant in C.A.No.513 of 2015, submitted that if the petitioner does not initiate any further legal proceedings against his client before any other *forum*, his client has no objection for giving up the sum of Rs.10 *lakhs* and that in the event, the petitioner choses to initiate fresh litigation with regard to the machinery, payment of Rs.10 *lakhs* by his client may be without prejudice to its right to avail legal defence in such proceedings.

In the light of the above facts, C.A.Nos.506 and 513 of 2015 are allowed. Orders, dated 28.07.2014 and 24.03.2015, in C.P.No.22 of 2014 are recalled and the Company Petition is dismissed as withdrawn with liberty to both the parties in terms of the prayer made.

As a sequel to dismissal of the company petition, Company Application Nos.129 and 130 of 2014 and 361 of 2015 shall stand disposed of as infructuous.

(C.V.NAGARJUNA REDDY, J)

31st March, 2015

GHN