

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

COMPANY PETITION No.192 of 2014

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03.08.2015

Between:

M/s.Nilkamal Bito Storage Systems Private Limited,
Hyderabad

...Petitioner

And

M/s.Coastal Corporation Ltd., Vishakapatnam

...Respondent

Counsel for the petitioner: Mr.P.Sri Harsha Reddy

Counsel for the respondent: Mr.N.V.Shravan Kumar
for Mr.S.V.S.S.Sivaram

The Court made the following:

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ORDER:

This company petition is filed for an order to wind up the respondent company for non-payment of the debts allegedly due to the petitioner.

Having regard to the nature of the dispute raised in the company petition, it is not necessary to record detailed facts. It will suffice to note that under two purchase orders, dated 02.04.2012 and 25.06.2012, the petitioner executed works of construction of godowns for cold storage purpose. In connection with these works, disputes regarding payment of balance amounts have arisen. A perusal of the copies of e-mails commencing from 14.08.2012 would show that the dispute between the parties centered around certain alleged deviations made by the petitioner in construction and the modifications required by the respondent in order to set-right the deviations. It could be further seen from the e-mails that while the petitioner was agreeable for rectifying the deviations, the respondent on its own rectified the alleged deviations by allegedly spending its money. The petitioner has already filed a civil suit for recovery of the disputed money.

From the respective pleadings of the parties, I am of the opinion that there is a *bona fide* dispute regarding the claim made by the petitioner and therefore, it cannot be said that the defence raised by the respondent either lacks *bona fides* or the same is made to evade the debt claimed by the petitioner. In these facts and circumstances of the case, I am of the opinion that this is not a fit case for entertaining the company petition for winding up the respondent company.

Therefore, the Company Petition is dismissed without adjudicating on the sustainability or otherwise of the claim made by the petitioner and without prejudice to the right of the petitioner to pursue the pending civil suit.

As a sequel to dismissal of the company petition, Comp.A.No.1113 of 2014 shall stand dismissed as infructuous.

(C.V.NAGARJUNA REDDY, J)

03rd August, 2015

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