

IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
ORDINARY ORIGINAL CIVIL JURISDICTION

APPEAL (L) NO. 125 OF 2016  
IN  
COMPANY APPLICATION NO. 289 OF 2016  
WITH  
NOTICE OF MOTION (ST.) NO. 1346 OF 2016  
IN  
APPEAL (L) NO. 125 OF 2016

ALONG WITH

APPEAL (L) NO. 126 OF 2016  
IN  
COMPANY APPLICATION NO. 288 OF 2016  
WITH  
NOTICE OF MOTION (ST.) NO. 1306 OF 2016  
IN  
APPEAL (L) NO. 126 OF 2016

|                                         |               |
|-----------------------------------------|---------------|
| M/s. Pranav Agro Industries Ltd. & Anr. | ...Appellants |
| <i>In the matter between</i>            |               |
| M/s. Macworld Industries SDN BDH.       | ...Petitioner |
| <i>Versus</i>                           |               |
| M/s. Pranav Agro Industries Ltd.        | ...Respondent |

-----  
Mr. Viral Dadia, in person for Appellant No. 1.

Mr. Aniruddha Lad, i/b Benny Joseph Law Offices, for the Respondent.

Mr. Sandeep Bhagwat, for Official Liquidator.

-----  
CORAM : A.S. OKA &  
A.A. SAYED, JJ.  
DATE : 20th June 2016

**P.C. :**

1. Heard learned Counsel appearing for the Appellants. Learned Counsel appearing for the Official Liquidator is present, who tenders across the bar status Report dated 6th April 2016.

2. The Appeals are directed against common order passed by the learned Company Judge on 24th February 2016 in Company Application (L) No. 833 of 2015 in Company Petition No. 256 of 2013 and Company Application (L) No. 834 of 2015 in Company Petition No. 377 of 2013.

3. The Applications were taken out by the Company for reworking of the schedule of payment of admitted claim of the Petitioners in the Company Petition. By the impugned order, the learned Company Judge held that considering the facts of the case, no further time should be granted to the Company and therefore, by dismissing the Company Applications, the learned Judge directed that the admission of the Company Petition should be advertised.

4. Learned Judge has noted in the impugned order that on 11th March 2015 the Company Petitions came up for admission and Company agreed to pay a sum of Rs. 4,50,00,000/- which was to be paid in nine installments of Rs. 50,00,000/- on 7th day of every

month starting from 7th April 2015. The last installment was to be paid by 7th December 2015. It is necessary to make reference to what transpired on 7th May 2015 on the basis of the Application made by the Director of the Company. Time to pay the installment due on 7th May 2015 was extended upto 31st May 2015. There was an undertaking given to the Company Court not to seek any further extension. What is material are the facts recorded in paragraph 5 of the impugned order, which read thus:-

*“This installment was paid. The company, however, failed and neglected to pay the third installment. It is not clear whether the company applied to the court for extension but in the order dated 30th June, 2015 it is recorded that the company be given extension to pay the 7th June, 2015 installment with additional 1% p.m. on or before 7th August, 2015. It was further ordered that the installment that fell due on 7th July, 2015 and 7th August, 2015 shall be paid together, with additional interest at 1% p.m. thereon from their respective original due dates till payment, on or before 7th September, 2015. The installment that was*

*due and payable on 7th September, 2015 was to be paid with this additional interest of 1% p.m. with the installment that fell due on 7th October, 2015. The last two installments payable on 7th November, 2015 and 7th December, 2015 were to be paid on their respective due dates. In the said order it was also made clear that the installments shall be paid on the respective due dates as mentioned in the order and no further extension of time will be considered under any circumstances. Since the installments payable were restructured under the said order, the advertisement of the admission order was deferred until further orders. It was also made clear that in the event of any default being committed in payment of the installments as provided in the order, the petitioner was at liberty to approach the Official Liquidator and thereupon the Official Liquidator shall proceed to take physical possession of the books of accounts as well as movable and immovable assets of the respondent company without any further reference to the court. The petition was also to be advertised without*

*further reference to the court. The waiver of notice under rule 28 of the Companies (Court) Rules, 1959 by the respondent company is also noted.”*

5. However, the Company defaulted despite the aforesaid restructured schedule. In view of the default committed by the Company, by order dated 16th September 2015, the winding up Petition already stood admitted. The Official Liquidator was appointed by provisional Liquidator.

6. The learned Counsel appearing for the Appellants does not dispute that during pendency of Appeal (L) No. 125 of 2016, only a sum of Rs. 10,00,000/- has been paid and during pendency of Appeal (L) No. 126 of 2016, only a sum of Rs. 30,00,000/- has been paid. Thus, there is a gross default on the part of the Appellants and therefore, it is impossible to grant any relief to the Appellant.

7. We find that the learned Company Judge was absolutely right that he declined to rework the schedule of the amounts payable by the Company considering the gross defaults. Hence, there is no merit in the Appeals and the same are accordingly, dismissed.

**[A.A. SAYED, J.]**

**[A.S. OKA, J.]**