

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
COMPANY PETITION NO. 622 OF 2014**

Jal Hormusji Hansotia & Anr.

...Petitioners

Versus

**M/s. Pranik Shipping & Services
Ltd.**

...Respondent

Ms. Priyanka Kothari, a/w Mr. Ayaz Bilawala, Ms. Priti Tare, i/b M/s. Billawala & Co., for the Petitioners.

Mr. Ashwin Shete, a/w Ms. Dhnashri Boga, i/b M/s. Jayakar & Partners, for Respondent.

Mr. B.H. Hansotia, C.A. of Petitioner present.

**CORAM : B.P. COLABAWALLA, J.
DATE : 8th June 2016**

P.C. :

1. This Company Petition seeks winding up of the Respondents Company-Pranik Shipping & Services Limited on the ground that it is unable to pay its debts. It is the case of the Petitioners that the Respondent Company is indebted to the Petitioner in the aggregate sum of Rs. 1.74 Crores. This claim is made on the basis of decrees passed by this Court in Summary Suit No. 2969 of 2007, Summary Suit No.

1954 of 2008 and Summary Suit No. 1955 of 2008. All the three decrees were passed on 11th December 2008. It must be mentioned here that the Respondent Company is not a party Defendant in the said Suits, but the claim in the present Petition is made on the basis that the Respondent Company is a partner of two of the Defendants in the Summary Suit filed by the Petitioners.

2. After the matter was argued for some time, the parties have arrived at an amicable settlement and have agreed that the Company Petition be disposed of by consent. Both the Petitioners have tendered a letter of authority dated 7.06.2016 authorising Mr. Bomi Hormusji Hansotia, who is present in Court today to consent to the present order being passed. The said letters of authority are taken on record and marked as 'X' and 'X1' for identification. Accordingly, the following order is passed by consent of both parties :-

- (i) The parties have agreed that the Petitioners shall accept in full and final satisfaction of this claim a sum of Rs. 1,42,50,000/-, not only against the

Respondent Company, but also against the Defendants in Summary Suit No. 2969 of 2007, Summary Suit No. 1954 of 2008 and Summary Suit No. 1955 of 2008.

(ii) The said sum of Rs. 1,42,50,000/- shall be paid in the following manner :-

a) Rs. 5,00,000/- on or before 30th June 2016;

b) Rs. 7,50,000/- on or before 5th August 2016;

c) Rs. 65,00,000/- on or before 31st December 2016; and

d) Rs. 65,00,000/- on or before 30th June 2017.

As far as the installments at Sr.Nos. (ii)(c) and (ii)(d) are concerned (Rs. 65,00,000/- each) the Respondent Company is granted a grace period of 15 days.

These payments shall be made on behalf of

the Respondent Company either by itself or by any of the Defendants in Summary Suit No. 2969 of 2007, Summary Suit No. 1954 of 2008 and Summary Suit No. 1955 of 2008, which payment shall be accepted by the Petitioners.

- (iii) Until the payment as set out earlier is being made without any default, the execution proceedings in Summary Suit No. 2969 of 2007, Summary Suit No. 1954 of 2008 and Summary Suit No. 1955 of 2008 shall remained stayed.
- (iv) On the entire amount being paid without any default, this Company Petition shall stand dismissed and the decrees passed in Summary Suit No. 2969 of 2007, Summary Suit No. 1954 of 2008 and Summary Suit No. 1955 of 2008 shall be marked as fully satisfied. The Petitioners also undertake to return to the Respondent Company the original Bills of Exchange on the basis of

which the aforesaid three Suits were filed.

- (v) In the event, there is a default in making payment of the sum of Rs. 1,42,50,000/- or any part thereof, the Company Petition shall stand automatically revived, admitted and made returnable six weeks from the date of default. In such an event, the Petitioner is at liberty to move this Court to apply for further directions with reference to the advertisement of the Petition, etc.
- (vi) In the event, there is a default in making payment of the sum of Rs. 1,42,50,000/- or any part thereof, the execution proceedings in Summary Suit No. 2969 of 2007, Summary Suit No. 1954 of 2008 and Summary Suit No. 1955 of 2008 shall thereafter proceed and the Plaintiffs therein (Petitioners herein) will be entitled to claim the entire decretal amount.

3. The Company Petition is disposed of in the aforesaid terms. There shall be no order as to costs. Parties

to act on an ordinary copy of this order duly authenticated
by the Associate.

[B.P. COLABAWALLA, J.]