

**THE HON'BLE SRI JUSTICE NOOTY RAMAMOHANA RAO
AND
THE HON'BLE MRS. JUSTICE ANIS**

O.S.A.No.28 OF 2014

ORDER: *(Per the Hon'ble Sri Justice Nooty Ramamohana Rao)*

This appeal is directed against an order passed by the learned Company Judge in C.P.No.43 of 2012, instituted by the respondent herein seeking winding up of the present appellant, on the ground that it is not able to liquidate its liability, towards the petitioner in the company petition. On 12.08.2014, the learned Company Judge admitted the company petition and ordered for deferment of the publication by a period of one month. During the course of hearing of this appeal, after hearing Sri S. Ravi, learned Senior Counsel on behalf of Sri Amancharla V. Gopala Rao, learned counsel for the appellant and Sri Vedula Srinivas, learned counsel for the respondent, we suggested on 25.01.2016, for the appellant to draw a cheque in a sum of Rs.1.5 crores in the name of the Registrar of the High Court and to deposit the same before the Registrar (Judicial). Accordingly, cheque was drawn and deposited before the Registrar (Judicial) on 27.01.2016 and it is now preserved. Therefore, there appears to be a reasonable basis to infer that the financial liquidity of the appellant company, as doubted by the petitioner in the company petition may not be well founded. But however, any such finding would depend upon the evidence which will be marshaled by both sides before the Company Court. In these given set of circumstances, we mooted the idea that deferring the publication of admission of the company petition for its winding up for a while would meet the ends of justice better, so that, the possible fallout from any such publication on the affairs of the appellant company can be avoided. But, at the same time, the interests of the petitioner in the company petition have also got to be protected and balanced. Therefore, the cheque drawn in a sum of Rs.1.5 crores

by the appellant and deposited with the Registrar (Judicial) will continue to lie in such a deposit to the credit of C.P.No.43 of 2012 and we, further, direct that the publication of the admission of C.P.No.43 of 2012 be deferred until further orders. Now, the matter will be taken up for trial by the learned Company Judge and uninfluenced by any observations made by the learned Company Judge while granting admission to the company petition and also by us while dealing with O.S.A.No.28 of 2014, C.P.No.43 of 2012 will be adjudicated and decided entirely on its merits at the earliest possible time by the learned Company Judge.

With this, O.S.A.No.28 of 2014 stands disposed of.

Consequently, miscellaneous applications pending if any shall also stand closed.

We, only hope and trust that both parties will give a fresh look for an amicable settlement to the dispute, as it is not in the best interests of either of them to prolong the litigation endlessly.

JUSTICE NOOTY RAMAMOHANA RAO

JUSTICE ANIS

09.02.2016
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