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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ **CO.PET. 795/2014**

RELIANCE CAPITAL LTD

..... Petitioner

Through: Ms. Priya Darshini Arora, Advocate

versus

PRG INTERNATIONAL ELECTRICALS PVT LTD

& ORS.

..... Respondents

Through: Mr. K.C. Mittal, Mr. A. Garg, Ms. Ruchika Mittal, Mr. Siddharth Jain and Mr. Gaurav Dudeja, Advocates for R-1.

CORAM:

HON'BLE MR. JUSTICE RAJIV SHAKDHER

ORDER

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26.02.2016

CA 718/2016 and 719/2016

1. These are applications moved by respondent no.1 company, essentially seeking the following reliefs :-

(i). Recall of order dated 02.02.2016 passed by this court.

(ii). De-sealing of the factory of respondent no.1 company located at B-43, Jhilmil Industrial Area, Shahdara, New Delhi.

(iii). Repossession of the aforementioned factory by the O.L. to respondent no.1 company.

2. Pertinently, the company petition came up for hearing before this court for the first time on 19.12.2014, when, notice was issued. Since, service was not effected, the matter came up before the court on several dates.

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2.1 In the interregnum, the respondent no.1, admittedly, liquidated its dues owed to the petitioner on 09.07.2015. Consequently, a 'No Dues Certificate' was issued to respondent no.1 company by the non-applicant / petitioner, on 16.07.2015.

3. Notice in these applications was issued, yesterday, that is, on i.e. 25.02.2016.

4. Ms. Arora, who appears for the non-applicant/petitioner says that she does not wish to file a reply. Ms. Arora, in fact says that she has lodged an application for withdrawal of the company petition on 24.2.2016 vide diary no.64843/2016, which, however, is not on board today.

5. These are facts, which are not disputed by Ms. Arora. Despite, the aforesaid, on 02.11.2015, the learned counsel for the non-applicant / petitioner pressed the petition. Since, there was no representation on behalf of the respondents, this court upon perusal of the record as it stood before it, at that point in time and, based on the submissions made in support of the claim, admitted the petition, and issued, consequential directions for appointment of the Official Liquidator attached to this court, as the Provisional Liquidator.

6. The Official Liquidator was, resultantly, directed to take possession of the assets, books of accounts and record of the respondent company. As a matter of fact, other respondents were deleted from the array of parties. The citation was also directed to be published by this court in two newspapers and, in the official Gazette.

6.1 The O.L., as directed, complied with the order of this court. I am informed by Mr. Behl, the counsel for the O.L., that the aforementioned factory was sealed on 24.02.2016.

7. Having regard to the fact that Ms. Arora does not dispute any of the facts noted above, it is quite clear that the petitioner was derelict in its duty in failing to inform the court that the debt had been liquidated, as far back as, on 09.07.2015.

7.1 Therefore, quite clearly, the petitioner for reasons best known to itself got the court to pass coercive orders, when, the ground reality was, quite, to the contrary.

8. In these circumstances, I have no hesitation in directing recall of order dated 02.02.2016. The O.L. will, therefore, de-seal the aforementioned factory premises and hand over the possession of the same, forthwith, to the authorised representative of the respondent company. The O.L. will also withdraw its security agency which, I am told, is deployed, at the aforementioned factory premises. This exercise will be completed with due expedition, as indicated above.

9. Mr. Behl says that some expenses have been incurred in carrying out the directions of this court. The O.L. will, therefore, calculate the expenses and present a bill in that behalf to the petitioner, which shall, be paid by the petitioner, within one week from today. Ms. Arora says payment will be made to the OL as directed by this court, on a bill being presented.

10. In view of what has been recorded by me hereinabove, I am constrained to impose cost on the petitioner for putting the respondent

company to unnecessary trouble and expense. The petitioner will, therefore, pay sum of Rs.50,000/- as costs to the respondent company, within one week from today.

11. The applications are disposed of, with the aforesaid directions.

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12. Ms. Arora says that she does not wish to press the captioned petition, any further in view of the what is recorded hereinabove.

13. The captioned petition is, accordingly, dismissed as withdrawn.

14. The next date of hearing (i.e. 20.07.2016) fixed, in the matter, would consequently stand cancelled. It is ordered accordingly.

15. Dasti under the signatures of the Court Master.

RAJIV SHAKDHER, J

FEBRUARY 26, 2016

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