

\$~13.

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ W.P.(C) No.7006/2015, CM No.12842/2015 (for interim relief) and
CM No.27022/2015 (for dismissal of the petition).
M/S SHREE SHYAM COTSPIN LTD.
(IN LIQUIDATION) Petitioner

Through: Mr. Manohar Malik and Ms. Renuka
Iyer, Advs.

versus

ALLAHABAD BANK AND ORS Respondents
Through: Mr. Pankaj Jain, Adv. for R-1&2.

CORAM:

HON'BLE MR. JUSTICE RAJIV SAHAI ENDLAW

ORDER

%

03.05.2016

1. The present petition has been filed by M/s. Shree Shyam Cotspin Ltd. (in liquidation).
2. On enquiry whether the counsel for the petitioner represents the Official Liquidator (OL), he replies in the negative and states that he represents the ex-directors.
3. A petition under Article 226 of the Constitution of India even if maintainable notwithstanding the provisions of Section 446 of the Companies Act, 1956 by the company in liquidation, has to be at the behest of the OL and cannot be at the behest of the ex-directors. The ex-directors, if have any locus or cause of action, have to maintain the petition in their own name.
4. Upon the same being put to the counsel for the petitioner, he seeks to withdraw this petition with liberty to file on behalf of the ex-directors.

5. The counsel for the respondents no.1&2 objects contending that no liberty should be granted.

6. In my view, once this petition is by the company in liquidation and is held to be not maintainable being not by the OL and having been filed by the ex-directors, the ex-directors in any case would have a right to file a petition in their own name if otherwise maintainable in law and the question of grant or refusal of liberty does not arise.

7. With the aforesaid observations the petition is dismissed as withdrawn.

RAJIV SAHAI ENDLAW, J

MAY 03, 2016

‘pp’ ..