

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

COMPANY PETITION NO.345 OF 2015

Caprihans India Limited

....Petitioner

Vs.

Roha Paper Mills (India) Limited

....Respondent

Mr. Mustafa Doctor, senior advocate a/w. Mr. Hanosh A. i/b. Keystone Partners for petitioner.

None for respondent.

Mr. Pola Raghunath, Deputy Official Liquidator present.

CORAM : K.R.SHRIRAM, J.

DATE : 14th DECEMBER, 2017

PC.:

1 The company petition is filed by petitioner as shareholder of respondent company - Roha Paper Mills (India) Limited under the provisions of Section 433 (c), (f) and (g) read with Section 439 of the Companies Act, 1956. There were three other shareholders of the company one of whom Mr. Uday Acharya had passed away before the petition was admitted and the other two shareholders have throughout been absent despite service of notice. This fact has been recorded in the order dated 25th August, 2015 and also in the order dated 8th May, 2015. Even after the order of 25th August, 2015, none of the remaining two shareholders have appeared in the matter. There is no contest to the petition. Infact on this basis, the petition also came to be admitted on 25th August, 2015. By a separate order passed on 25th August, 2015, Official Liquidator of this Court was appointed as Provisional Liquidator and was given certain directions to

be complied with.

2 One of the other two shareholders was being investigated under the Maharashtra Protection of Interests of Depositors (in Financial Establishments) Act, 1999 (MPID Act) for his independent business unconnected with the company. It appears that the assets of the company also came to be attached by the Court establishment under the MPID Act. Therefore, Provisional Liquidator was directed to take steps to have that order vacated and the application of Provisional Liquidator to the Court establishment under the MPID Act is still pending.

3 Petitioner has filed an affidavit of service of one K.R. Vishwanathan affirmed on 25th November, 2015 confirming publication in Free Press Journal (in English), Navshakti (in Marathi) on 12th September, 2015. Petitioner has also filed an affidavit of one Janardhan Jayram Abgul affirmed on 18th December, 2015 confirming advertising the petition in the Maharashtra Government Gazette. The service report filed by the Company Department shows that the notice sent under Rule 28 of the Companies (Court) Rules, 1959 has come back with the endorsement “Left”.

4 Mr. Doctor, counsel for petitioner, on instructions states that company's registered office address remains the same and there is no change as it appears from the Company Master Data in the MCA portal.

5 In paragraphs 33 to 36 of the petition it is stated as under :

“33. Due to the ongoing investigation against the Acharyas, they have neglected/failed to carry out the business and management of the Company. As a result of the same :

a) The business of the Company has been suspended since atleast the year 2000 and no manufacturing activities or business of any kind is being presently carried out by the Company.

b) The plant and machinery of the Company have not been maintained at all and the same have been virtually reduced to scrap with little or no value. The same cannot be now used profitably for any manufacturing activity. The factory building of the Company has also become completely dilapidated due to neglect over the past several years and is unfit for occupation and use for any purposes. The aforesaid position can be easily ascertained from the photographs of the said property as obtained by the Petitioner. Copies of the said photographs are annexed hereto as Exhibit “N”.

c) There are no workmen working in the factory of the Company.

34. As such the substratum of the Company's business which was producing paper products from the factory on the said Property has been completely destroyed and there is no hope of any revival of the business of the Company. The Company did not carry on any other business and it is unlikely that it can now carry on any other business. The Company does not have the means to revive itself and it is unlikely that the Acharyas as majority shareholders would be in a position to infuse any further capital into the Company for its revival. This is especially in view of the claims made against them by investors before the Hon'ble MPID Court which runs into several hundred crores.

35. Infact, the neglect and lack of interest of the management of the Company in managing its affairs is clear from the fact that since the year 2000, no balance sheet, profit and loss statement or annual report have been filed with the Registrar of Companies, in breach of statutory requirements. In absence of these records it is impossible to accurately determine the true financial position of the Company and the current value of its assets. Further, as far as the Petitioner is aware, no annual general meeting of the Company has been conducted since the year 2000 and no notice of any such meeting has been given to the Petitioner.

36. The last balance sheet and annual report of the Company which the Petitioner could trace in the records of the Registrar of Companies are of the year 2000. These show that the Company had in the year ending 31st March, 2000 made a net profit of Rs.8,63,800/- on sales of around Rs.10,09,99,993/-.

6 In the circumstances, as no affidavit in reply has been filed by any other shareholders opposing the petition, the averments contained in the petition are uncontroverted. I have considered the pleadings and the documents annexed to the petition. I am also satisfied that the company has suspended its business for more than a year and it is just and equitable that the company is wound up.

7 Company petition is, therefore, allowed in terms of prayer clauses – (a), (b) and (c), which read as under :

(a) That the Company, Roha Paper Mills (India) Ltd. be wound up by an under the orders and supervision of this Hon'ble Court;

(b) That this Hon'ble Court be pleased to appoint the Official Liquidator attached to this Hon'ble Court or some other fit and proper person as the Liquidator of the said Company with all powers under the provisions of the Companies Act, 1956 and in law generally;

(c) That this Hon'ble Court be pleased to authorise and direct the Official Liquidator or such other person as may be authorised to take such legal steps as permissible to ensure that the Hon'ble MPID Court does not auction/sell the said Property or any of the properties of the Company for meeting the dues of the Acharyas to their investors.

8 Provisional Liquidator may continue to pursue the application filed before the MPID Court.

9 Official Liquidator shall forthwith act on an authenticated copy of this order without waiting for any notification.

10 Petition accordingly stands disposed.

(K.R. SHRIRAM, J.)