

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
COMPANY PETITION NO. 499 OF 2016
ALONGWITH
COMPANY APPLICATION NO. 412 OF 2016
IN
COMPANY PETITION NO. 499 OF 2016

Rashmin Rughani & Anr.

..... Petitioners

VERSUS

Rohan Developers Private Limited

..... Respondent

Mr.Pravin Samdhani, Senior Advocate, i/b. Mr.Abhijeet Marathe for the Petitioners.

Mr.Rohan Kelkar, a/w. Ms.Abhilasha Sharma, Mr.Piyush Pandey, i/b. Kartikeya & Associates for the Respondent.

CORAM : R.D. DHANUKA, J.

DATE : 3rd FEBRUARY, 2017

P.C.

By consent of parties, following order is passed :-

(a) The respondent admits that a sum of Rs.7,25,27,390/- is due and payable by the respondent to the petitioner as on 30th June, 2015 with interest at the rate of 15% per annum with quarterly rest from 1st July, 2015 till 15th March,2017. The respondent agrees and undertakes that w.e.f. 1st April 2017, it would pay interest at the rate of 15% simple interest to the petitioners till payment of the entire amount.

(b) The respondent agrees and undertakes to pay the aforesaid amount by monthly installment of Rs.75 lakhs each. The respondent agrees and undertakes to pay the balance

amount after payment of 11 installments in the last installment. The respondent agrees to pay the first installment on 15th March, 2017 and would pay the subsequent installments on 15th of each month by cheque and undertakes to honour those cheques on presentation.

(c) In the event of the respondent committing any default in payment of the monthly installments, the petition to stand admitted without further reference to court and in that event the Official Liquidator shall stand appointed as original liquidator of the company including all the assets. In that event, the respondent waives service of the petition under Rule 28 of the Companies (Court) Rules, 1959.

(d) Upon admission of the petition, the petition shall be made returnable after eight weeks from the date of such report.

(e) In that event, the petitioners shall deposit a sum of Rs.10,000/- towards publication charges with the Prothonotary and Senior Master of this court within two weeks from the date of such report. If the amount of Rs.10,000/- is not deposited by the petitioners within two weeks from the date of such report, company petition to stand dismissed without further reference to the court.

(f) In that event, if the amount is deposited, the petition shall be advertised in two local newspapers viz. (1) "Free

Press Journal” (in English) and (2) “Navshakti” (in Marathi) and also in (3) “Maharashtra Government Gazette”. Any delay in publication of the advertisement in the Maharashtra Government Gazette and any resultant inadequacy of notice shall not invalidate such advertisement or notice and shall not constitute non-compliance with this direction or with the Companies (Court) Rules, 1959.

(g) It is made clear that the ad-interim order passed by this court on 6th May, 2016 in this company petition to continue till payment of all the installments are made by the petitioners and in case of default to continue till disposal of the petition.

(h) It is made clear that the parties have not settled dispute in respect of the claims of Rs.75,00,000/- and Rs.2,70,00,000/- described in item nos. 16 and 17 of Ex.B to the petition. The petitioners would have liberty to file appropriate proceedings for recovery of the said amount and/or to continue the other proceedings already initiated by the petitioners against the respondent. This court has not expressed any views on the merits of the claims of Rs.75,00,000/- and Rs.2,70,00,000/- in this order.

(i) Mr.Samdhani, learned senior counsel for the petitioners states that if the payments are made by the respondent in accordance with the schedule agreed in the aforesaid order, the petitioners would apply for withdrawal of those proceedings

filed against the respondent under section 138 of the Negotiable Instrument Act and would apply for appropriate adjournment before the concerned court in those proceedings till the petitioners pay the installments in accordance with the schedule agreed aforesaid. Statement is accepted.

(j) All the statements made by the parties are recorded as undertakings to this court.

2. Company petition is disposed of in the aforesaid terms. No order as to costs.
3. In view of disposal of the company petition, company application does not survive and is accordingly disposed of.

(R.D.DHANUKA, J.)