

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
COMPANY APPLICATION NO.540 OF 2017
IN
COMPANY PETITION NO.387 OF 2015**

Nimbus Communications LimitedApplicant

IN THE MATTER BETWEEN :

State Bank of HyderabadPetitioner

Vs.

Nimbus Communications LimitedRespondent

Mr. Hemant Prabhulkar i/b. Jurisperitus Mumbai for applicant/original respondent.

Mr. Chetan R. Shah i/b. Goenka Law Associates for respondent/original petitioner.

CORAM : K.R.SHRIRAM, J.

DATE : 11th DECEMBER, 2017

PC.:

1 The relief sought in the application is as under :

“(a) That this Hon'ble Court be pleased to dismiss the above Company Petition No.387 of 2015 as withdrawn by the Petitioner in view of the full and final settlement that may be arrived at between the Petitioner and the Applicant and discharge the Provisional Liquidator appointed by this Hon'ble Court by its Order dated 17th April, 2017.”

2 The counsel for applicant/original respondent states that by an order dated 17th July, 2017, the Hon'ble Supreme Court of India was pleased to pass the following order :

“Mr. Rana Mukherjee, learned senior counsel submits that a discussion for settlement between the petitioner and the respondent-bank or its successor has taken place. In view of the aforesaid, we do not intend to keep this special leave petition pending. We are apprised by learned counsel for the petitioner that a proposal is going to be put up before the Company Judge within four weeks hence. Till the Company Judge deals with the proposal no further steps shall be taken in the matter on any aspect relating to the professional liquidator.

The special leave petition is accordingly disposed of.”

3 Mr. Prabhulkar states that they have given an offer to original petitioner, who is respondent in the application and copy of the offer letter dated 14th August, 2017 is annexed to application.

4 The offer is against a claim of Rs.36,56,25,072.86/- which was due and payable when the petition was filed. Applicant/original respondent is willing to pay a sum of Rs.4 Crores in full and final settlement. When counsel for respondent/original petitioner stated that that offer was not acceptable, the counsel for applicant/original respondent stated that they have improved their offer and increased it to Rs.5.10 Crores. The counsel for respondent/original petitioner states that his instructions are to reject this offer of respondent and Court should dismiss the application.

5 Since the relief sought in the application is to dismiss the petition as withdrawn by petitioner in view of the full and final settlement and the fact that there is no settlement arrived at and original petitioner, who is respondent in the application, having rejected the offer made by applicant/original respondent, the company application stands dismissed with cost in the sum of Rs.20,000/-. This amount to be paid by way of cheque drawn in favour of the advocate on record for respondent/original petitioner within two weeks from today.

(K.R. SHRIRAM, J.)