

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
COMPANY APPLICATION (L) NO. 677 OF 2016
IN
COMPANY APPLICATION NO. 570 OF 2016
IN
COMPANY PETITION NO. 427 OF 2015

Bolt Master (India) Pvt.Ltd.

..... Applicant

VERSUS

M/s.Zarhak Steels Ltd.

..... Respondent

Ms.Geetha, i/b. Mr.H.Kumar Vaidyanathan for the Applicant.

Ms.Mauzma Ansari, i/b. Mr.Nilesh Das for the Respondent.

CORAM : R.D. DHANUKA, J.

DATE : 9th JANUARY, 2017

P.C.

By this company application, the applicant seeks modification of the order dated 10th August, 2016 passed by B.P.Colabawalla, J. which order was passed by consent of both the parties. The respondent company had agreed to pay a sum of Rs. 10 lacs in full and final settlement of all the claims that the petitioner had against the respondent company. It is not in dispute that this court by an order dated 11th July, 2016 had directed the respondent company to pay a sum of Rs.10,61,823/- to the petitioner on or before 8th August, 2016. The petitioner agreed to accept the lesser amount provided the respondent would have paid the said amount of Rs.10 lacs in two installments i.e. an amount of Rs.7 lacs on or before 10th October, 2016 and balance amount of Rs.3 lacs on or before 9th December,2016.

2. By the said order dated 10th August,2016, it was made clear that if the

respondent company fails to make payment of said amount of Rs.10 lacs or any part thereof within the time stipulated, the company petition shall be revived, admitted and made returnable within six weeks from the date of default.

3. In the company application, the applicant has prayed for extension of time to permit the first installment of amount of Rs.3 lacs on 12th November,2016 through cheque no.132258 and remaining amount on or before 11th January,2017.

4. Learned counsel appearing for the appellant tenders a cheque of Rs.2 lacs today and prays for further extension of time to pay the balance amount till the end of February 2017. Learned counsel for the original petitioner vehemently opposes this application on the ground that the respondent has already committed default in making payment directed by this court on two occasions and cannot be shown any further indulgence by this court. He submits that the applicant has mentioned the cheque numbers in the company application for making payment of the installments and inspite of the said information, the applicant is not willing to pay the amount even according to the installments sought by the applicant.

5. It is not in dispute that the respondent has already committed default of the two orders passed by this court. The applicant has not tendered the amount even according to the prayers sought in the company application today. In these circumstances and in view of the strong objection of the petitioner to show any further indulgence to the respondent, I am not inclined to grant any relief to the respondent in this company application.

6. The company petition accordingly stands admitted and 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. Respondent waives service under Rule 28 of the Companies (Court) Rules, 1959.

7. Company petition is made returnable on **6th March, 2017**. The petitioner shall on or before 16th January, 2017 deposit a sum of Rs.10,000/- towards publication charges with the Prothonotary and Senior Master under the intimation to the Company Registrar, failing which the company petition shall stand dismissed for non-prosecution without further reference to the court. After the advertisements are issued, the balance, if any, shall be refunded to the petitioner.

8. Company application is dismissed in the aforesaid terms. No order as to costs.

(R.D.DHANUKA, J.)