

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 13.10.2017

CORAM

THE HONOURABLE MR.JUSTICE M.M.SUNDRESH

Company Petition Nos.51 and 52 of 2015

1.Mrs.M.Radhamani

2.Mrs Priya Vasanth

..Petitioners in
both CPs

Vs.

1. Espa Industrials (CBE) Private Limited,
(Struck Off), A company registered under
the Companies Act, 1956, which had its
registered address at
6, Housing Board Road,
Kunimuthur, Coimbatore-641 008.
Tamil Nadu, India.

2.The Registrar of Companies, Coimbatore,
Stock Exchange Bulding, II-Floor,
683, Trichy Road, Singanallur,
Coimbatore-641 005, Tamil Nadu.

3.Mr.V.Durairaj

(3rd Respondent impleaded as per order
dt.22.06.2016 in CP.51/2015 and
order dt.15.11.2016)

.. Respondents in
C.P.No.51/2015

1.Seven Hill Spinners Private Limited,
(Struck Off), A company registered under
the Companies Act, 1956, which had its
registered address at
11/2, Kaligarayar Street, Ramnagar,
Coimbatore-641 005,Tamil Nadu.

2.The Registrar of Companies, Coimbatore,
Stock Exchange Bulding, II-Floor,
683, Trichy Road, Singanallur,
Coimbatore-641 005, Tamil Nadu.

3.K.Soundararajan

4.A.Guruswamy

5.M.Kalavati

(Respondents 3 to 5 impleaded as per order
dated 22.06.2016 in CP.52/2015 and order dt.
15.11.2016)

... Respondents in
C.P.No.52/2015

Company Petition No.51 of 2015 is filed under Section 560(6) of the Companies Act, 1956 read with Rule 92 of the Company (Court) Rules, 1959 seeking to restore Espa Industrials (CBE) Private Limited, having CIN 18-15267 of 1988 having its registered office at 6, Housing Board Road, Kuniyamuthur, Coimbatore-641 008, Tamil Nadu India.

Company Petition No.52 of 2015 is filed under Section 560(6) of the Companies Act, 1956 read with Rule 92 of the Company (Court) Rules, 1959 seeking to restore Seven Hill Spinners Private Limited, having CIN U17111TZ1981PTC001037 having its registered office at 11/2 Kalinganayanar Street, Ramnagar, Coimbatore-641 009, Tamil Nadu, India.

For Petitioners
in both O.Ps

: Mr.Thriyambak J. Kannan

For 2nd Respondent
in both O.Ps.

: Mr.K.Raju

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ORDER

As the facts and issues involved in both the company petitions are one and the same, they have been taken up together and disposed of by way of common order.

2. A suit was filed in O.S.No.788 of 1997 on the file of Sub Court, Coimbatore. One of the items of the suit properties belonged to the company. One of the parties to the suit was also a Director of the company. The company was struck off on 12.01.2004. The decree dated 15.10.1998 passed in the suit was borne out of compromise. Unfortunately, the Director of the company, who has agreed to part away the properties standing in the name of the company, died in the interregnum. Thereafter, an application in I.A.No.1128 of 1998 in O.S.No.788 of 1997 was filed by the legal heirs of the Director seeking to revive the company, so that the item which stands in the name of the company can be given in favour of the present petitioners, who are the plaintiffs in O.S.No.788 of 1997. As the request was not acceded to, these petitions have been filed.

3. The learned counsel appearing for the petitioners would submit that as per Section 56(6) of the Companies Act, 1956, these

petitions have to be allowed. The case on hand would come under the definition "just". For the purpose of giving effect to the decree, these petitions are to be allowed.

4. The learned counsel appearing for the second respondent would submit that the petitioners not being either the company member or a creditor, these petitions are not maintainable.

5. None appears for the respondent No.3 in C.P.No.51 of 2015 and respondent Nos.3 to 5 in C.P.No.52 of 2015, who are the other erstwhile Directors. Therefore, this Court presumes that they have no objection for allowing the petitions.

6. The objections raised cannot be countenanced. It is not the case of the respondents that it is not just and proper to revive the company. The reasons are so obvious. The properties of the company cannot be kept idle. There is no objection from any other interested persons. Nobody else's interest is affected by allowing these petitions. After all the object is to give effect to the decree, which has borne out of the compromise between the parties.

7. In such view of the matter, these company petitions stand ordered as prayed for. The second respondent is directed to pass appropriate orders restoring the companies within a period of eight weeks from the date of receipt of a copy of this order.

raa

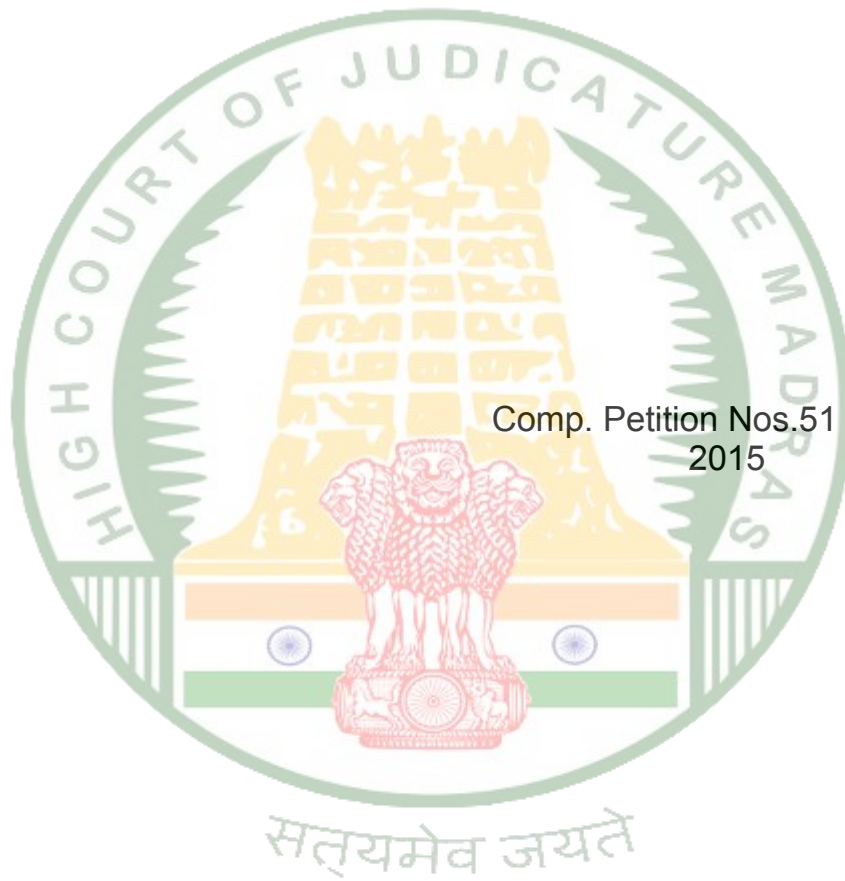
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M.M.SUNDRESH,J.

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Comp. Petition Nos.51 and 52 of
2015

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