

\$~57

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **CO.PET. 192/2016**

SANJAY BHARGAVA Petitioner

Through: Mr. Shashank Shekhar, Advocate

versus

AMR INFRA SOLUTIONS (P) LTD. Respondent

Through: Mr. Manu Bansal, Advocate
Mr. Mayank Goel, Advocate for OL

CORAM:
HON'BLE MR. JUSTICE SIDDHARTH MRIDUL

ORDER
% **11.04.2017**

CO.APPL.3749/2016

The accompanying winding up petition under Sections 433(1)(e) and 434 of the Companies Act, 1956, seeking winding up of the respondent-company/AMR Infra Solutions (P) Ltd., is, *inter alia*, predicated on the ground of non-payment of an amount of Rs.8,00,000/-, despite service of notice of winding up on the registered office of the respondent-company, to which no reply is stated to have been given by the respondent-company.

It is, *inter alia*, the case of the petitioner that the said amount represents the failure of the respondent-company to abide by the MOU executed between the parties herein, whereby the respondent company was liable to hand over the possession of flat booked by the former in the latter's project namely, 'Krishna Apartment' at Indirapuram, Ghaziabad and was liable to pay the return amount as promised therein

This Court by way of the order dated 08.03.2016 in the accompanying

winding up petition, issued notice to the respondent-company and its Managing Director and directed them to file their reply . On the next date of hearing, i.e. 13.07.2016, none appeared on behalf of the respondent-company despite service of the notice. By way of the said order dated 13.07.2016, this Court admitted the accompanying winding up petition and the Official Liquidator attached to this Court was appointed as the Provisional Liquidator.

Subsequent upon the admission of the winding up petition as well as appointment of the Official Liquidator as the Provisional Liquidator, the respondent-company has instituted the present application. By way of the present application, it has been stated that the respondent company has entered into a settlement agreement with the petitioner, in relation to the underlying dispute between the parties. On 30.09.2016, the present application was taken up for hearing by this Court and following order was rendered:-

“ The present application under Rule 9 of the Company (Court) Rules, 1959 read with Section 151 of the Code of Civil Procedure, 1908 seeks to place on record the settlement arrived at by and between the petitioner and the respondent-company, whereby the latter has undertaken to discharge the outstanding liability vis-a-vis the former by paying a lumpsum of Rs.12,43,000/-, towards full and final settlement.

Learned counsel appearing on behalf of the respondent-company has handed over two demand drafts bearing No.259585 dated 19.09.2016, drawn on Vijaya Bank, Karol Bagh Branch, New Delhi in the sum of Rs.6,19,000/- and demand draft bearing No.032175 dated 19.09.2016, drawn on Punjab National Bank, Karol Bagh Branch in the sum of Rs.6,22,000/- as well as Rs.2,000/- in cash has been handed over to counsel appearing on behalf of the petitioner, who acknowledges receipt thereof subject to encashment.

The present application further seeks recall of the order of this Court dated 13.07.2016, whereby this Court was pleased to appoint the Official Liquidator attached to this Court as the Provisional Liquidator of the respondent-company.

Insofar as, this relief is concerned, Mr. Rajiv Bahl, learned counsel appearing on behalf of the Official Liquidator prays for time

to file a short reply.

Let the reply be filed within a period of one week from today with an advance copy to counsel on the other side, who may file rejoinder thereto, if any, before the next date of hearing.

Renotify on 25.10.2016.”

Mr. Mayank Goel, learned counsel appearing on behalf of the Official Liquidator states that they do not oppose the grant of relief in the present application, in view of the settlement between the parties *qua* the underlying dispute, as aforesaid; as well as the receipt of an amount of Rs.8,50,000/- by the Official Liquidator towards reimbursement of the expenses incurred by the Provisional Liquidator for securing the assets of the respondent-company pursuant to the directions issued by way of order dated 13.07.2016.

Therefore, in view of the settlement arrived at between the parties to the underlying dispute; the payment of expenses incurred by the Official Liquidator appointed as the Provisional Liquidator of the respondent company; and the circumstance that the respondent company is a running concern, it is considered just, necessary and expedient to recall the order dated 13.07.2016 by virtue of which the accompanying winding up petition was admitted and the Official Liquidator attached to this Court was appointed as the Provisional Liquidator of the respondent company.

The said order dated 13.07.2016 is accordingly recalled. The Official Liquidator attached to this Court appointed as the Provisional Liquidator of the respondent company, by way of order dated 13.07.2016, is discharged. The Official Liquidator attached to this Court is directed to de-seal the subject premises i.e. registered office of the company situated at 2425/11, Gurudwara Road, Karol Bagh, New Delhi-1 10005 and Plot No.5A/2, Sector- PHI-02, Greater Noida, UP, at the expenses of the respondent-company, forthwith.

The application is disposed of.

CO.PET. 192/2016

In view of the order being passed today in the CO.APPL.3749/2016, the present petition is disposed of as having being settled.

APRIL 11, 2017
dn

SIDDHARTH MRIDUL, J