

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION**

COMPANY PETITION NO. 673 OF 2014

Tree of Life Pvt. Ltd.Petitioner

Vs.

M/s.Power Horse India Pvt. Ltd.Respondent

WITH

COMPANY PETITION NO. 263 OF 2015

Mr.Sanjay Sadanand VarrierPetitioner

Vs.

M/s.Power Horse India Pvt. Ltd.Respondent

Mr.Aditya Pimple a/w. Ms.Neelkamal Chaudhary I/b Universal Legal for petitioner in CP/673/2014.

Mr.Nirman Sharma a/w. Ms.Viveka Truman I/b Deven Dwarkadas and Partners for petitioner in CP/263/2015.

Ms. Rama Subramanian for respondent.

Mr.Ani Mohandas, Director of respondent company present in Court.

CORAM : K.R.SHRIRAM, J.

DATE : 19TH JULY, 2018

P.C.:

COMPANY PETITION NO. 673 OF 2014

1 Shri Sharma and Shri Pimple state that the company and its directors and particularly Shri Prashant Shah and Shri Ani Mohandas have once again breached the orders of the Court. Despite directions of this Court, only Shri Ani Mohandas is present in Court and Shri Prashant Shah and the other directors are not present in Court. Despite directions of this Court, neither Shri Ani Mohandas nor Shri Prashant Shah have filed copies of their

passports along with affidavit within one week from today.

2 Ms.Subramanian appearing for Shri Ani Mohandas and Shri Prashant Shah and the company states that by 3 O'clock, Shri Ani Mohandas, who is present in Court, will bring a copy of his passport and passport of Shri Prashant Shah.

3 Ms.Subramanian states that the company is unable to make payments and could be wound up.

4 Shri Pimple states that the advertisement, as directed in Paragraph 3 of the order of 28th June 2018, has been given in Free Press Journal and Navshakti on 4th July 2018. Shri Pimple states that an affidavit to that effect will be filed before the end of this week. On 28th June 2018, it was made very clear to Shri Ani Mohandas and Shri Prashant Shah that a breach of the order would be viewed as a continuous breach of the orders of this Court and proceedings for contempt of Court will be initiated against the company and its directors. Even on 26th April 2018, it was made very clear.

5 Therefore, suo motu contempt notice is issued against the company and its directors, viz., S/Shri Ani Mohandas, Prashant Jasubhai Shah, Rajneesh Omprakash Verma and Suresh Kavikkal, who are called upon to show cause, within four weeks from today, as to why they should not be

held guilty of contempt of this Court.

Notice is made returnable on 23rd August 2018.

6 Shri Ani Mohandas states that a contempt notice be served directly on his advocate Ms.Subramanian and that will be good service.

AT 3:00 P.M.

7 Ms.Subramanian tendered (i) photocopy of the passport of Shri Ani Mohandas bearing NO.Z2024111 issued by Regional Passport office, Bangalore which is taken on record and marked as 'X' for identification; (ii) photocopy of Shri Prashant Jasubhai Shah bearing No. L3299509 issued by Regional Export office, Ahemadabad, which is taken on record and marked as 'X-1' for identification; (iii) photocopy of Aadhar Card of Shri Ani Mohandas which is taken on record and marked as 'X-2' for identification; and also (iv) photocopy of Aadhar Card of Shri Prashant Jasubhai Shah is taken on record and marked as 'X-3' for identification.

8 Admission of the petition has been also advertised in Navshakti and Free Press Journal and also in Maharashtra Government Gazette as per the affidavit of service affirmed on 13th December 2016. Notice under Rule 28 of the Companies (Court) Rules, 1959 has been served as per the service report from the Company department dated 19th January 2017. The liabilities have

been admitted and the company has repeatedly breached the undertakings given to this Court. Therefore, I am satisfied that the company is unable to discharge its debt, is commercially insolvent and hence, requires to be wound up.

9 Petition, therefore, allowed in terms of prayer clauses (a) and (b) which read as under :-

(i) That the Respondent Company be ordered and decreed to be wound up by and under the orders and directions of the High Court.

(ii) That the Official Liquidator of this Hon'ble Court or some other fit person be appointed as Liquidator of the Respondent Company with all the powers under the Companies Act, 1956.

10 Petitioner's advocate, within two weeks, to forward an authenticated copy of this order to the official liquidator who shall take immediate steps without waiting for any notification.

11. The company petition accordingly stands disposed.

12 Upon receipt of the authenticated copy from petitioner's advocate, the official liquidator shall forthwith cause notice to all concerned directors calling upon them to file their respective statement of affairs strictly in consonance with the provision of law. All directors of respondent company, now in liquidation, are hereby directed to file their respective statements of

affairs as required under Section 454 of the Companies Act, 1956, failing which, the official liquidator shall proceed further and lodge criminal complaint against the erring directors, without seeking prior sanction of this Court for initiation of criminal prosecution.

COMPANY PETITION NO. 263 OF 2015

13 Respondent company – M/s.Power Horse India Pvt. Ltd. has been ordered to be wound up by a separate order passed today, i.e., 19th July 2018 in Company Petition N.673 of 2014.

14 Therefore, the petition stands disposed with liberty to petitioner to lodge its proof of debt with the Official Liquidator who shall consider the same in accordance with law.

15 If the order dated 19th July 2018 in Company Petition No.673 of 2014 winding up respondent company – Power Horse India Pvt. Ltd. is recalled or set aside in appeal, liberty is given to the other petitioner to revive its petition and move once again for necessary orders including winding up of respondent company.

16 In view of the personal undertakings given by Ani Mohandas and Prashant Shah, this order read with the orders passed in these two petitions

listed today, can be executed as decree against these two persons, viz., Ani Mohandas and Prashant Jasubhai Shah in their individual capacity.

(K.R. SHRIRAM, J.)

Shraddha
Kamlesh
Talekar

Digitally signed
by Shraddha
Kamlesh Talekar
Date: 2018.07.21
18:41:22 +0530