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

COMPANY PETITION NO.405 OF 2016
WITH
COMPANY APPLICATION NO.99 OF 2018
IN
COMPANY PETITION NO.405 OF 2016

Weir Minerals (India) Pvt. Ltd. ....Petitioner

Vs.

International Minerals Trading Co. Pvt. Ltd. ....Respondent

Mr. Ashish Kamat a/w. Ms. Megha Chandra and Mr. Nitesh Agarwal I/b. Naik Naik and Company for petitioner.
Mr. Haresh Jagtiani, senior advocate a/w. Ms. Apurva Manwani and Ms. Bhavi Vora I/b. Mr. Siddhesh S. Bhole for applicant in CA/99/2018 (intervener).
Mr. Karl Tamboly a/w. Ms. Alya Khan and Ms. Aditi Bhansali I/b. Vashi and Vashi for Pawan Arya Group (intervener).

CORAM : K.R.SHRIRAM, J.
DATE : 21st AUGUST 2018

P.C.:

1 This petition is filed for winding up of respondent company – International Minerals Trading Company Private Limited. According to petitioner, the company is indebted to petitioner in the sum of Rs.1,27,18,432/- of which principal amount is Rs.70,74,463/-.

2 The company has not replied to the statutory notice and there is no affidavit in reply though the petition was served on 21st September 2016.

3 Mr. Jagtiani, senior counsel appearing for group of shareholders and Mr. Tamboly, counsel appearing for other group of shareholders and both these groups control 50% each of the shareholding in the company,

state that there is *inter se* dispute between the two promoters group and both the promoters have filed claims and counter claims against the other. Both counsel state that based on directions passed by the Hon'ble Supreme Court of India, Mediator has been appointed and the process of mediation is going on. Mr. Jagtiani and Mr. Tamboly state that because of this deadlock, there is no effective board in the company and hence the company is unable to effectively defend the petition. The promoters group represented by Mr. Jagtiani have filed an intervention application. Ofcourse Mr. Kamat submits that such an application is not maintainable.

4 At the same time, put an end to this petition, Mr. Jagtiani and Mr. Tamboly state that the shareholders group that they represent will deposit a sum of Rs.40 lakhs each, i.e., Rs.80 lakhs as against the principal amount of Rs.70,74,463/-. I must add that this figure of Rs.80 lakhs was suggested by this Court.

5 Mr. Kamat seeks leave to apply for withdrawal of these amounts by filing an appropriate company application. Mr. Jagtiani and Mr. Tamboly state that each of the group that they represent be permitted to file a reply to the company application as and when filed. Mr. Kamat objects stating that the only person who can file a reply is the company and the shareholders do not have any right to oppose any company application. Whether the shareholders can oppose the application to be filed by

petitioner can be decided as and when the company application is filed.

6 The amount of Rs.40 lakhs each to be deposited by Mr. Jagtiani's clients and Mr. Tamboly's clients to be deposited with Prothonotary and Senior Master within one week from today. Prothonotary and Senior Master to invest the amount in a fixed deposit initially for a period of one year and subject to orders of this Court.

7 Upon the amount being deposited under advise to petitioner's advocates, the petition will stand disposed. Within one week of deposit, petitioner may take out an application for withdrawal of these amounts. If the amounts are not deposited, the company will stand wound up without further reference to this Court since the affidavits in support of advertising the petition in newspapers and Maharashtra Government Gazette and notice under Rule 28 of the Companies (Court) Rules 1959 are on record. Intervention application also stands disposed.

(K.R. SHRIRAM, J.)