

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

COMPANY PETITION NO.676 OF 2016

M/s.Perfect Polymers FZ LLC)....Petitioner
V/s.

M/s.Rotoflow Polymers Private Limited)....Respondent

Mr.Sahil Mahajan I/by Arora and Co. for petitioner.

Ms.Gauri Joshi I/by M/s.Apex Law Partners for respondent.

CORAM : K.R.SHRIRAM,J

DATE : 13.7.2018

P.C.:-

1. The petition is filed for winding up of the respondent company- Rotoflow Polymers Private Limited on the grounds that the company is unable to pay its debts.

2 On 27.3.2018 at the time of admission, the following order came to be passed :-

“1. Shri Kothari appearing for the company states that admittedly, the company has to pay to petitioner principal amount of US\$ 215,000/- mentioned in the petition. Shri Kothari states that the terms of settlement have not materialized and therefore the petition be admitted and the company will try to pay the amount or settle the matter in its entirety within four weeks from today, failing which petitioner may go ahead and advertise the petition. Shri Mahajan for petitioner has no objection and is only happy with the suggestion made by Shri Kothari.

2. In these circumstances, the following order is passed”

3 Mr.Mahajan for petitioner states that no amount has been paid thereafter. Ms.Joshi for the company concurs and states that the company can be wound up.

4 On record is an affidavit of one Rohit Dhanraj Kamble affirmed on 15.6.2018 confirming service in 'Free Press Journal' and 'Navshakti' on 5.5.2018 and in Maharashtra Government Gazette for the period 10th to 16th May 2018 at Serial No.M-1843. The Company Department has placed the service report dated 20.6.2018 confirming service of the notice under Rule 28 of the Company (Court) Rules, 1959.

5 In view of the above, I am satisfied that the company is unable to discharge its debts and is commercially insolvent and requires to be wound up.

6 In the circumstances, petition is allowed in terms of prayer clauses-(a) and (b) which read as under :-

“(a) Pass an order that the Respondent Company viz., Rotoflow Polymers Private Limited having its registered office at Plot No.3, G No.378, Near Walut Beverages, Aurangabad-431134 be wound up by and under the directions of this Hon'ble Court under the provisions of the Companies Act, 1956 ;

(b) Pass an order that the Official Liquidator attached to this Hon'ble Court be appointed as Liquidator of the Respondent Company viz., Rotoflow Polymers Private Limited with all powers under the provisions of the Companies Act, 1956 including the power to take charge of all assets, papers, bank accounts, business, income, etc. of the Respondent Company."

7 The advocate for petitioner shall furnish a copy of this order, duly authenticated by the Associate of this court within two weeks to the office of Official Liquidator. The Official Liquidator shall forthwith act thereupon without waiting for any notification appointing him as liquidator. Upon receipt of the authenticated copy from the 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 the respondent company, now in liquidation are hereby directed to file their respective statement 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.

8 Registry to return the amount of Rs.10,000/- deposited by petitioner subject to deductions, if any.

(K.R.SHRIRAM,J)