

THE HON'BLE SRI JUSTICE CHALLA KODANDA RAM

COMPANY PETITION No. 179 OF 2013

ORDER :

This Company Petition is filed seeking winding up of the respondent company for its inability to pay a sum of Rs.24,84,960/- to the petitioner company as on 31.03.2012 for the transportation carried out for and on behalf of the respondent company.

Pursuant to the notice issued on 31.07.2013, the respondent company filed the counter-affidavit, enclosing thereto certain documents, one of which was the e-mail addressed by the petitioner to the respondent company as on 25.03.2013. The said mail shows that the amount due and payable by the respondent company is Rs. 8 lacs as against the amount claimed under the legal notice got issued under Section 434 of the Companies Act, 1956. In those circumstances, this Court, considering the amount being meagre, desired to give an opportunity to the respondent company to clear the debt. As the respondent reported no instructions, the Company Petition was admitted and the publication of advertisement was deferred. Thereafter, the matter underwent adjournments till 14.06.2018. The petitioner was also directed to send a notice to the respondent informing about the admission of the Company Petition, so that necessary arrangements could be made by the respondent company by engaging a counsel. Thereafter, the matter underwent two adjournments.

Learned counsel for the petitioner submits that his client's enquiry discloses that the respondent company is not being

functioned at the addresses mentioned in the cause title and as on date, its whereabouts are not known. In those circumstances, he submits that passing of winding up orders may not be beneficial to his client, in any manner, and in the light of the finding recorded by this Court that a sum of Rs. 8 lacs is due and payable, the petitioner company may be given opportunity to pursue the other remedies available in law by closing the Company Petition.

Having regard to the submission made by the learned counsel for the petitioner, in the facts of the present case, liberty is granted to the petitioner to pursue the remedy, as available in law, for recovery of the monies due. The observations made in the present Company Petition shall not be construed as expressing any definite opinion as to the liability or otherwise of the respondent company, as the examination in the Company Petition was for a limited purpose of arriving at a *prima facie* conclusion.

Subject to the above, the Company Petition is closed.

25th July 2018

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CHALLA KODANDA RAM, J