

THE HON'BLE SRI JUSTICE CHALLA KODANDA RAM

COMPANY APPLICATION No.432 of 2018

ORDER:

The Company Application is filed seeking to recall the order, dated 26.02.2018, on which date this Court closed the Company Petition No.105 of 2016 on account of compromise entered into between the petitioner and the respondent-company. In the said order, it was also observed that if the respondent commits breach of conditions in the Memo, dated 09.02.2018, or the statement made in the Court recall of the order, dated 26.02.2018, if considered, at the request of respondent, would be at huge costs and expenses of respondent.

2. It is to be noted that the Company Petition came to be closed recording the compromise entered into between the parties, as order of the Court. In view of liberty granted, the petitioner is prosecuting the case. It may be noted that the proceedings under Section 434 of the Companies Act, 1956, are required to be proceeded before the National Company Law Tribunal (NCLT), Hyderabad Bench, Hyderabad, from the notified date i.e., on 07.02.2016, for winding up of companies on the ground of their inability to pay the debt.

3. In that view of the matter, the Company Court cannot entertain the order passed in Company Petition No.105 of 2016. In those circumstances, the present Company Application cannot be considered by this Court. However, it is reported by learned

counsel for the respondent that in terms of the settlement arrived at between the parties, the petitioner cannot prosecute the Company Application.

4. Leaving it open to the respondent-company to implement the agreement entered into between the parties, the present Company Application is closed. It is needless to mention that the petitioner shall be at liberty to take appropriate legal proceedings for enforcement of the terms of agreement entered into between the parties.

Miscellaneous petitions, if any, pending shall stand closed.

CHALLA KODANDA RAM, J

AUGUST 21, 2018
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Date:21.08.2018

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