

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

NOTICE OF MOTION NO.719 OF 2019

IN

APPEAL NO.227 OF 2019

IN

COMPANY PETITION NO.1296 OF 2015

RPW Projects Pvt. Ltd.	 Applicant
<i>In the matter between</i>	
RPW Projects Pvt. Ltd.	 Appellant
Vs.	
Iron Triangle Ltd. (formerly known as Backbone Enterprise Ltd.)	 Respondent

Mr. Ashish Kamat with Ms Ekta Tripathi i/by MDP
& Partners for the Applicant/Appellant.
Ms Panthi Desai i/by M.P. Vashi & Associates for
the Respondent.

**CORAM: S.C. DHARMADHIKARI &
G.S. PATEL, JJ.**

DATE : AUGUST 14, 2019

P.C:

1. Having heard both sides on this notice of motion, we
do not find that every single consequence of the order of the
learned single Judge being not complied with should never visit

the appellant/original respondent before us. In other words, once there was a default in complying with the initial consent arrangement of 11-9-2017, the later order of the learned single Judge of 14-2-2019 and the order of the Division Bench of 20-3-2019 in this Appeal, the appellant/original respondent in the Company Petition should not be visited with the consequence, particularly of winding up. Now, by a self-operative order, in default, the Company Petition was to stand admitted, duly advertised and the Official Liquidator attached to this Court was to step in as Provisional Liquidator. All that has not happened simply because this Court allowed the applicant/appellant before us to deposit some amount and pay the balance by post-dated cheques. Now the post-dated cheques are in possession of the original petitioner/respondent to this Appeal but they have not encashed these cheques. If they present the same for encashment, that is permissible for they have waited till today (14-8-2019). Mr. Kamat, appearing for the applicant/appellant in support of this notice of motion, however, says that the appellant is trying his best to dispose of one

immovable property and pay back the balance amount. Today the post-dated cheques are bound to be dishonoured. He requests that let the same be not presented by the respondent for a further period. Mr. Kamat says that this should not be done till 31-10-2019. The counsel appearing for the respondent has no instructions in this regard.

2. We, therefore, reject the request of Mr. Kamat to modify the orders, particularly of the Division Bench dated 20-3-2019 and direct that these post-dated cheques should not be presented till 30-9-2019. However, we, in the facts peculiar to this case and this order not being treated as a precedent, direct that the self-operative order of the learned single Judge and particularly the directions which were to operate in default of compliance with the Consent Terms, shall not be effective till 30-9-2019. The notice of motion is disposed of. No further extension will be granted. The Registry shall not take any notice of motion with identical prayers on the file of this Appeal.

(G.S. PATEL, J.)

(S.C. DHARMADHIKARI, J.)