

THE HON' BLE SRI JUSTICE CHALLA KODANDA RAM

COMPANY PETITION No.34 of 2016

ORDER:

This company petition is filed by the petitioner-M/s Madhur Food and Feeds, invoking Section 433(e), 434(1)(a) and 439(1)(b) of the Companies Act, 1956, read with Rule 95 of the Companies (Court) Rules, 1959, alleging that the respondent-Company viz., M/s Raj Chick Farms (P) Ltd., is due and payable to the petitioner a sum of Rs.5,52,953/-.

Now, as per the Memo of Compliance dated 24.07.2019 filed by the respondent, a sum of Rs.5,52,953/- stands paid to the petitioner from the State Bank of India Account of M/s Raj Breeders & Hatcheries Pvt. Ltd.

Learned counsel for the petitioner, though, does not dispute the receipt of the amount of Rs.5,52,953/-, however, contends that the amount has been received from the sister-concern of the respondent-Company by name M/s Raj Breeders & Hatcheries Pvt. Ltd. He further contends that M/s Raj Breeders & Hatcheries Pvt. Ltd. Also owes money to the petitioner.

Adverting to the submission of the petitioner's counsel, the learned counsel for the respondent-Company submits that even with respect to the admitted amount of Rs.50,48,063/- owed by M/s Raj Breeders & Hatcheries Pvt. Ltd., the account has been settled as per the orders of this Court in Company Petition No.264 of 2015, dated 27.07.2016.

Heard both the learned counsel, and perused the material placed on record.

In Company Petition No.264 of 2015, after hearing both the parties, this Court had recorded that the debt payable to the petitioner stood

crystallized at Rs.50,48,063/- and the said debt was directed to be paid in instalments. A Memo evidencing payment of Rs.50,48,063/- has been filed in Company Petition No.264 of 2015. In other words, the admitted debt amount to the extent of Rs.50,48,063/- has been paid and in that view of the matter, the amount of Rs.5,52,953/- which has been specifically paid satisfies the amount that is required to be paid in Company Petition No.34 of 2016. Therefore, the company petition does not survive and the same is liable to be dismissed.

Insofar as the contention of the petitioner that an amount of Rs.3,75,111/- is still due and payable, as it is well settled that a Company Petition is not a suit for recovery of amount, this Court is not required to consider the same. However, it would be open for the petitioner to work out the remedies available under law, subject to their eligibility and right.

Accordingly, the company petition is dismissed. No costs. Miscellaneous petitions, if any pending, shall also stand dismissed.

JUSTICE CHALLA KODANDA RAM

26th July, 2019
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