



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 17.03.2021

CORAM :

THE HONOURABLE MR.JUSTICE N.KIRUBAKARAN
AND
THE HONOURABLE MR.JUSTICE P.D.AUDIKESSAVALU

O.S.A.NO.148 OF 2018

AND

C.M.P.NO.8452 OF 2018

M/s. Pinky Enterprises Private Limited
Represented by its Director
Giorgio Borzino
No.67, Saravanalayam, Om Sakthi Nagar
Ramanathapuram
Coimbatore - 641 045.

... Appellant/
Respondent

Vs.

M/s. Balaji Knit Fashions
Represented by its Proprietor
K.S.Senthikumar
No.54/174, Sri Venkateswara 2nd Street
Valayangadu, Gandhi Nagar Post
Tiruppur - 641 603.

... Respondent/
Petitioner

PRAYER:-

Original Side Appeal filed under Order XXXVI Rule 1 of the Original Side Rules read with Clause 15 of the Letters Patent, praying to set aside the impugned order dated 12.02.2018 made in C.P. No. 131 of 2014 passed by this Hon'ble High Court, Madras and allow this Original Side Appeal.

Prayer in C.P. No. 131 of 2014:-

The Company Petitions praying this court

a)winding up of the respondent company M/s.Pinky Enterprises Private limited NO.67 Saravanalayom Sakthi Nagar Ramanathapuram Chennai 641 045 under the provisions of the companies act 1956.

b) appointment of the official liquidator madras as the



liquidator of the company.

c) Payment of the cost of the petition to the petitioner.

WEB COPY

For Appellant : Mr. C.Suraj
For M/s.Iyer and Thomas

For Respondent : Mr. R.Selvakumar

J U D G M E N T

(Judgment of the court was made by N.KIRUBAKARAN.J.,)

The matter was heard through "Video Conference".

2. This Appeal has been filed challenging the order passed in C.P. No. 131 of 2018 dated 12.02.2018.

3.This Company Petition has been filed for winding up of the Appellant Company viz., M/s. Pinky Enterprises Private Limited, having office at No. 67, Saravanalayaom Sakthi Nagar, Ramanathapuram, Chennai - 641 045, under the provisions of the Companies Act, 1956 and for appointment of the official liquidator, Madras as the liquidator of the company. By virtue of the order dated 12.02.2018 in Company Petition No. 131 of 2014, the publication of the matter has been admitted and the relevant portion of the order is extracted as follows:-

Admit.

(i) Notice on the Court Notice Board ;

(ii) Notice to the Respondent ;

(iii) Notice to the Registrar of Companies ;

(iv) Affixture of notice at the premises of the Registered Office of the Respondent Company ;

(v) The Petitioner is directed to publish the Company Petition in one issue of Tamil Daily "Malai Murasu" in one issue of English Daily "Indian Express" and in the Tamil Nadu Government Gazette fixing the date of hearing on 05.04.2018 ;

(vi) The Petitioner is directed to publish the company petition giving at least fourteen days clear advance notice ;

(vii) The Official Liquidator, High Court, Madras



WEB COPY

is appointed as Provisional Liquidator and is directed to take charge of the assets of the respondent company. The Ex-Directors of the respondent company are directed to file their statement of affairs before the Official Liquidator within a period of 21 days. The Company shall deposit a sum of Rs.25,000/- towards initial expenses before the Official Liquidator in this matter.

Call the company petition on 05.04.2018."

Against the said order, the present Appeal has been filed.

4. When the matter is taken up today, the Indian Resident Director of the Appellant company, viz., Mrs. Devaki Mahindran and the Proprietor of the Appellant viz., Mr. K.S.Senthil Kumar appeared before this Court and categorically stated that the matter has been settled and a Joint Memorandum of Compromise dated 10.03.2021, signed by Mrs. Devaki Mahindran, the Indian Resident Director of the Appellant company, and Mr. K.S.Senthil Kumar, the Proprietor of the Appellant company has been filed to that effect .

5. Mrs. Devaki Mahindran, the Indian Resident Director of the Appellant company and Mr. K.S.Senthilkumar, Proprietor of the Appellant company categorically stated that the matter has been settled and the Appellant Company has agreed to make payment of Rs.21,20,189/- in five installments by 07.08.2021, as stated in paragraph No.3 of the joint memorandum of compromise entered between the Parties.

6. This Court perused the joint memorandum of compromise and heard the statement made by the Parties.

7. In view of the above, it is clear that the matter has been settled as the Appellant Company agreed to carry out the obligations as stated in paragraph No.3 of the joint memorandum of compromise on or before 07.08.2021. If any of the installments is not paid as per the joint memorandum of compromise, it is open to the Respondent Company to take appropriate proceedings against the Appellant including reviving the Appeal. It is also open to the Appellant Company to write a letter to the Ministry of Corporate Affairs to change the status of the Appellant as under liquidation.

8. In view of the aforesaid submissions made, the Original Side Appeal is disposed of in terms of the joint memorandum of compromise and the joint memorandum of compromise shall form



part of the Judgment and Decree and accordingly, the Company Petition in C.P. No. 131 of 2018 shall stand closed. It is made clear that the Respondent is not precluded from applying for reviving this Original Side Appeal in the manner prescribed by law, if need arises. Consequently, connected Miscellaneous Petition is closed. No costs.

*Xerox copy of memo of Compromise is enclosed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

Maya/ay

To

- 1 The Sub Assistant Registrar,
Original Side Section,
High Court of Madras,
Chennai - 600 104.
- 2 The Official liquidater
High Court, Madras.

+lcc to Mr.H.Karthik Seshadri, Advocate, S.R.No.17057
+lcc to Mr. R.Selvakumar, Advocate, S.R.No.18077

O.S.A.No.148 of 2018

AK(CO)
PM/19/11/2021