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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 19.11.2021

CORAM

THE HONOURABLE MR. JUSTICE PARESH UPADHYAY
AND
THE HONOURABLE MR. JUSTICE SATHI KUMAR SUKUMARA KURUP

O.S.A.Nos.320 and 321 of 2021
&
CMP No.18826 and 18828 of 2021

M/s.Southern Petrochemical Industries
Corporation Ltd.,
A Company incorporated under the
Companies Act, 1956
Having its Registered Office at
SPIC House, No.88, Mount Road,
Guindy, Chennai - 600 032.

.. Appellant in
both O.S.As

Vs

M/s.Bajaj Electricals Limited,
A Company incorporated under the
Companies Act, 1956,
Having its Registered Office at
No.45/47, Veer Nariman Road,
Mumbai - 400 001
rep. By its POA & General Manager,
Sales Support (South) Office at
103, Nelson Manickam Road,
Aminjikarai, Chennai - 23.

..Respondent in
both O.S.As

Appeals filed under Order XXXVI Rule 1 of O.S. Rules read with Clause 15 of the Letters Patent against the order dated 08.10.2021 in Company Application Nos.50 and 49 of 2021 in Company Petition No.298 of 2014.

Comp.A.No.49 of 2021:

This company Application is filed praying that this Hon'ble Court be pleased to direct the respondent to produce the following:

(a)Business Transfer Agreement dated 05.08.2011.



(b) Ledger Statement.

(c) Balance sheet for the period 2009 - till 2014 maintained by the respondent for transactions with the Applicant / petitioner accompanied by an affidavit stating on oath the correctness of the contents of the same.

Comp.A.No.50 of 2021:

This company Application is filed praying that this Hon'ble Court be pleased to permit the delivery of interrogatories , as annexed to this affidavit to the respondent, consequently direct the respondent to respond to the same within a time period as may be directed by this Hon'ble Court.

Comp. Petition No.298 of 2014:

This Company Petition is filed under section 433(e) & (f), 434(1) (a) and 439(1) (b) of the companies Act, 1956 praying this Hon'ble Court be pleased to:

(a) Wind up the respondent company viz., Southern Petrochemicals Industrial Corporation Limited, a company incorporated under the companies Act, 1956, having its Registered Office at SPIC House, 88, Mount Road, Guindy, Chennai - 32.

(b) Appoint the official Liquidator as Liquidator of the respondent company viz., Southern Petrochemicals Industrial Corporation Limited, a company incorporated under the companies Act, 1956, having its Registered Office at 'SPIC House', 88, Mount Road, Guindy, Chennai - 32 with all powers under the companies act 1956 to take charge of the company and to conduct its affairs in the course of its winding up.

(c) Direct the respondent to pay the costs of this petition, and

(d) Pass such further or other orders as to this Honourable Court may seem fit.

For Appellant : Mr.AR.L.Sundaresan
for Ms.AL.Ganthimathi
in both O.S.As

For Respondent : Mr.Thriyambak J. Kannan
in both O.S.As



(Delivered by PARESH UPADHYAY, J.)



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3.3. Learned senior advocate for the appellant has further submitted that the documents which are ordered to be produced are not available with the appellant, because the concerned division is transferred to some other person/ entity.

3.4. It is submitted that these appeals be entertained and impugned order be interfered with.

4.1. On the other hand, learned advocate for the respondent (applicants in C.A.Nos.49 and 50 of 2021 in C.P.No.298 of 2014) has opposed these appeals, while supporting the impugned order of learned single Judge. It is submitted that, innocuous directions are issued by learned Single Judge and the very fact that the respondent in the company petition has filed these appeals, that itself would show that the dispute raised on his behalf before learned single Judge was not genuine /bonafide and therefore that aspect be also taken into consideration.

4.2. Learned advocate for the respondent has also taken this Court through the letters exchanged by the parties to contend that the appellant cannot be permitted to contend that the division in question has been transferred but whether the debt is transferred or not, that is for the respondent (original petitioner) to put on record and the Court could not have issued any direction in that regard. It is submitted that what is asked for by the present respondent and what is ordered by learned single Judge are the documents, some of which can be in the possession of the present appellant only and therefore no interference be made by this Court. It is submitted that these appeals be dismissed.

4.3. On behalf of the respondent grievance is also made that though the impugned order is dated 08 October 2021 and the directions were to be complied with within two weeks, challenge is made at this bleated stage to frustrate the order. It is submitted that on this additional ground also, no interference be made by this Court.

5. The argument against the present appellant as noted in para 4.3 is rejected. We do not find that, the time taken by the present appellant, more particularly in the weather which this State had suffered in last few weeks, should weigh against the appellant. These appeals need to be considered on merits.

6. Having heard the learned advocates for the respective parties and having considered the material on record, this Court finds as under:



appellant before learned single Judge with regard to extension of time for compliance of the impugned order, it may be considered by learned single Judge, on its own merits.

9. These appeals are dismissed, with above observations. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(CS VIII)

//True Copy//

Sub Assistant Registrar

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To

The Sub Assistant Registrar,
Original Side,
High Court, Madras.

+1cc to M/s.AL.Ganthimathi, Advocate, S.R.No.59747

O.S.A.Nos.320 and 321 of 2021

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NSK 22/12/2021