

**Appellant Vs. Respondent**

**Appellant Vs. Respondent**

**SooperKanoon Citation :** [sooperkanoon.com/1059445](http://sooperkanoon.com/1059445)

**Court :** Kolkata

**Decided On :** May-16-2012

**Judge :** Sanjib Banerjee

**Appellant :** Appellant

**Respondent :** Respondent

**Judgement :**

IN THE HIGH COURT AT CALCUTTA ORIGINAL JURISDICTION CA No.302 of 2012 CP No.19 of 2011 IN THE MATTER OF: RUBISTAR SUSRUSA HOSPITAL & MEDICAL INS.

PVT.LTD.AND CA No.329 OF 2011.CP No.19 of 2011 IN THE MATTER OF: RUBISTAR SUSRUSA HOSPITAL & MEDICAL INS.

PVT.LTD.AND KANU KIRTANIYA BEFORE: The Hon'ble JUSTICE SANJIB BANERJEE Date :

16. h May, 2012.

Appearance: Mr.J.L.

Pugalia Mr.D.K.

Chatterjee, Adv.Mr.R.Bagchi, Adv.Mr.Sudip Pal Chowdhury, Adv.Ms.Lopita Basu, Adv.The Court : CA No.329 of 2012 is the application by the contributory claiming

to have been the holder of 96 per cent shares of and in the company whether directly or through the supporteRs.The original share certificates have been carried to Court.

Upon such application for recalling the order of winding up passed on February 6, 2012 being received, the applicant was directed to advertise the gist of the application in the same newspapers where the creditors petition had been advertised.

The necessary affidavit of compliance has been filed.

The petitioning creditor is represented.

No other creditor has appeared whether to oppose or to support the application.

The petitioning creditor claims that the amount due as on date is Rs.9,67,953.74/- excluding the costs.

The applicant has agreed to pay the said amount of Rs.9,67,953.74/- which includes the advertisement expenses.

Upon such payment being made and the relevant instrument encashed by the petitioning creditor, the applicant will be entitled to obtain possession of the books and records, assets and properties of the company in liquidation that have been taken possession of by the Official Liquidator.

The applicant will, however, have to demonstrate before the Official Liquidator the veracity of the applicants assertion that the applicant is supported by 96 per cent of the erstwhile shareholders of the company in liquidation.

The applicant will also reimbuRs.the expenses incurred by the Official Liquidator.

The exercise should be completed by the Official Liquidator within seven days of the applicant paying the amount expended by the Official Liquidator.

CA No.329 of 2012 is disposed of on the above basis.

Upon the payment being received by the petitioning creditor, CP No.19 of 2011 will remain permanently stayed.

CA No.302 of 2012, which is a letter for directions filed by the Official Liquidator, is rendered redundant in the circumstances and is disposed of without any order as to costs.

Urgent certified photocopies of this order, if applied for, be supplied to the parties subject to compliance with all requisite formalities.

(SANJIB BANERJEE, J.) kc.

AR(CR)

**SooperKanoon - India's Premier Online Legal Search - [sooperkanoon.com](http://sooperkanoon.com)**