

Appellant Vs. Respondent

Appellant Vs. Respondent

SooperKanoon Citation : sooperkanoon.com/1125267

Court : Kolkata

Decided On : Feb-10-2014

Judge : Nadira Patherya

Appellant : Appellant

Respondent : Respondent

Judgement :

ORDER

SHEET IN THE HIGH COURT AT CALCUTTA Original Jurisdiction CP468OF 2009 BENGAL WATERPROOF LTD.AND MALVIKA SYNTHETICS (P) LTD.CP299OF 2010 BENGAL WATERPROOF LTD.AND JET AGE FINANCE PVT.LTD.CP311of 2010 BENGAL WATERPROOF LTD.AND KLASSIC APARTMENT PVT.LTD.CP11OF2011M/S.BENGAL WATERPROOF LTD.AND M/S.VISHWA ENTERPRISE CP12of 2011 M/S.BENGAL WATERPROOF LTD.AND M/S.TIRUPATI ENTERPRISES CP14OF2011M/S.BENGAL WATERPROOF LTD.AND SAVITA BHARTIA CP158OF 2011 BENGAL WATERPROOF LTD.AND M/S.CROMPTON INDUSTRIAL & CHEMICAL Co.CP566OF 2011 BENGAL WATERPROOF LTD.AND INDRAJIT BALL CP252OF 2012 BENGAL WATERPROOF LTD.AND ANSUYA J.

DOSHI CP238OF 2013 BENGAL WATERPROOF LTD.AND JAI BOTHRA (HUF) CP257OF 2013 BENGAL WATERPROOF LTD.AND ANITA BOTHRA CP258OF

2013 BENGAL WATERPROOF LTD.AND ANUJ BOTHRA
CP331OF2013M/S.BENGAL WATERPROOF LTD.AND SMT.

PAYAL SINGHANIA CA353OF 2013 WITH CP566OF 2011 BENGAL
WATERPROOF LTD.AND MAHESH TEA CHEST CP391OF 2013 BENGAL
WATERPROOF LTD.AND HITESH BABARIA AND FAMILY, HUF CP404OF 2013
BENGAL WATERPROOF LTD.AND SHILPA BABARIA BEFORE: The Hon'ble
JUSTICE PATHERYA Date : 10th February, 2014.

Mr.Mainak Bose, Advpocate for Klassic Apartment Pvt.LTD.Mr.K.Shah for Manish
Enterprises.

Mr.A.Kundu for petitioning creditor in item nos.11, 12 and 13.

Mr.Tapan Coomaar Dey, Advocate with Mr.Debsoumya Basak for petitioning
creditor in CP4682009.

Mr.Aniruddha Mitra for Jet Age Finance Pvt.LTD.Mr.S.Dewanji, Advocate for
petitioner In item nos.9,15 & 16.

Mr.D.N.

Sharma for the company.

The Court :-By order dated 16th January, 2014, time was given to the company to
make payment of the arrears and the current instalments in the presence of one
Mr.Abhishek Bose, representative of the company.

The only reason for fixing the matter this day is to ascertain whether payment has
been made.

Payment made to some of the petitioning creditors by cheques have been
dishonoured, while in respect of other un-secured credit ORS.no payment has
been made.

This shows ex facie inability of the company to pay its debts, which is the
requirement of Section 434 (1)(a).In fact, such intent of inability to pay was evident

as no reply was given to the statutory notice issued under Section 434 (1)(a) of the Companies Act, 1956.

In spite thereof as the claims have been admitted and recorded in the order passed earlier no further leniency can be shown to the company (in liquidation).The intent is clear that it will not liquidate the claims prior to 31st March, 2014.

Accordingly, let the company be wound up and the Official Liquidator is directed to forthwith take possession of the assets, properties, books, records and documents of the company now in liquidation.

Prayer for stay is made, considered and rejected.

Official Liquidator and all parties to act on a photostat signed copy of this order on the usual undertakings.

(PATHERYA, J.) nm

SooperKanoon - India's Premier Online Legal Search - sooperkanoon.com