

**Appellant Vs. Respondent**

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**SooperKanoon Citation :** [sooperkanoon.com/1128126](http://sooperkanoon.com/1128126)

**Court :** Kolkata

**Decided On :** Feb-19-2014

**Judge :** Nadira Patherya

**Appellant :** Appellant

**Respondent :** Respondent

**Judgement :**

ORDER

SHEET CP NO.436 OF 2013 IN THE HIGH COURT AT CALCUTTA Original Jurisdiction ORIGINAL SIDE IN THE MATTER OF : RE: M/S.BRAND WAGON (MEDIA) PVT.LTD.AND NIRMAL DAGA BEFORE: The Hon'ble JUSTICE PATHERYA Date : 19th February, 2014.

MR.KULDIP MALLICK, MR.D.TIWARI,ADVOCATES FOR PETITIONING CREDITOR MR.SUDIP DEB, MR.K.A.BHADHURI,ADVOCATES FOR COMPANY  
The Court : This winding up application has been filed for price of goods sold and delivered.

The work order was issued on 2nd June, 2011 by the company to the petitioning creditor.

It involved printing and installation of sun packs and one of the terms and conditions of the work order was that after installation of sun packs, the same

would be validated by the officials of the company and within sixty days from the date of installation payments would be made.

The work was not found to be satisfactory and an e-mail in this regard was sent by the principal Camellia Group to the company on 20th June, 2011.

This e-mail was forwarded by the company to the petitioning creditor herein.

In spite of receipt of the said e-mail and having gone through the complaint therein no reply has been made by the petitioning creditor.

In fact, the subject matter of the e-mail was in respect of poor quality of work done by the petitioning creditor.

This was in 2011 and the notice under section 434 has been issued in May 2013 to which a reply has also been given.

It is not for the first time that the petitioning creditor has been made aware of the poor quality of work executed by it which was not acceptable.

This had been informed to it in 2011 itself.

As a bona fide defence has been raised by the company, this application merits no order and is, accordingly, dismissed.

This, however, will not prevent the petitioning creditor from taking steps in an appropriate forum in accordance with law.

All parties concerned are to act on a signed photocopy of this order on the usual undertakings.

( PATHERYA, J.) sb.

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