

Appellant Vs. Respondent

Appellant Vs. Respondent

SooperKanoon Citation : sooperkanoon.com/1135449

Court : Kolkata

Decided On : Mar-24-2014

Judge : Nadira Patherya

Appellant : Appellant

Respondent : Respondent

Judgement :

ORDER

SHEET CP NO.549 OF 2013 IN THE HIGH COURT AT CALCUTTA Original Jurisdiction ORIGINAL SIDE IN THE MATTER OF : M/S.MA CHANDI DURGA ISPAT LIMITED - ANDM/S.HANUMAN STEEL CORPORATION BEFORE: The Hon'ble JUSTICE PATHERYA Date : 24th March, 2014.

MS.JOLLY SETT, MS.D.SETT, MR.R.GINODIA,ADVOCATES FOR PETITIONER
The Court : This winding up application has been filed on account of price of goods sold and delivered.

The case of the petitioning creditor is that steel materials were supplied to the company by it for which bills were raised, which bills have been received without any protest.

The goods have also been accepted by the company.

No dispute has been raised in respect thereof nor has the goods been rejected.

As no payment was forthcoming, on 17th April, 2012 a statutory notice was issued to which no reply has been given.

Therefore, orders be passed as sought.

In spite of communication of order dated 28th January, 2014 whereby directions were given to the company to file affidavit-in-opposition and the same being received by the company no affidavit has been filed, none appears on behalf of the company too.

This, therefore, raises the statutory presumption of the inability on the part of the company to make payment of its dues.

Accordingly, C.P.No.549 of 2013 is admitted for the sum of Rs.45,24,000/- along with interest payable at 8% per annum on the reducing balance on and from the date of issuance of the statutory notice till realisation.

An opportunity is given to the company to liquidate the dues of the petitioning creditor in twelve equal monthly instalments.

The fiRs.of such instalment be paid by 10th April, 2014 and the 10th day of each succeeding month.

In default of payment of any one instalment, the petitioning creditor will be entitled to advertise once in Ei Samay and once in The Times of India.

Matter to appear in the list eight weeks hence.

Affidavit of service filed be kept on record.

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

(PATHERYA, J.) sb.

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