

**Appellant Vs. Respondent**

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**SooperKanoon Citation :** [sooperkanoon.com/1143833](http://sooperkanoon.com/1143833)

**Court :** Kolkata

**Decided On :** Jun-11-2014

**Judge :** Nadira Patherya

**Appellant :** Appellant

**Respondent :** Respondent

**Judgement :**

ORDER

SHEET CP No.712 of 2013 IN THE HIGH COURT AT CALCUTTA ORIGINAL SIDE IN THE MATTER OF:M/S.M.S.

GLASS INDUSTRIES LTD.AND M/S.ULTRATECH CEMENT LTD.(RMC DIVISION ) BEFORE: The Hon'ble JUSTICE PATHERYA Date : 11th June, 2014.

Mr.Tapan Coommar Dey,Adv..for Petitioning creditor.

Mr.Manas Dasgupta, Adv..for company.

The Court :-This winding up petition has been filed for payment which arises on account of price of goods sold and delivered.

According to the petitioning creditor goods were supplied and Rs.28,03,725/- out of has a total been sum paid of Rs.72,43,653/- thereby leaving a a sum sum of of Rs.44,39,928/- due and payable by the company to the petitioning creditor.

For non-payment a statutory notice was issued on 16th August, 2013 and reply has also been given thereto.

A demand draft aggregating to Rs.3,50,000/- was enclosed with the reply to the statutory notice in lieu of dishonoured cheque.

Counsel appearing for the company does not dispute the liability of the company to make payment of Rs.40,89,928/- but seeks payment by instalments and an explanation has also sought to be given for non payment which is caving in of the furnace erected in respect of the said project for which material had been supplied.

Accordingly, CP No.712 of 2013 is admitted for the sum of Rs.40,89,928/-.

An opportunity is given to the company to make payment of the said sum in eight instalments of Rs.5,00,000/each.

Fraction, which remains outstanding, be paid by the 9th instalment.

Needless to mention that the admitted sum will carry interest at 8% per annum at the reducing balance.

The fiRs.of such instalment be paid by 30.06.2014 and the 30th day of each succeeding month.

In default of payment of any one instalment, the petitioning creditor will be entitled to advertise once in Sambad Pratidin and once in The Statesman (English Edition).Matter is made returnable twelve weeks hence.

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

( PATHERYA, J.) nm

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