

Appellant Vs. Respondent

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Court : Kolkata

Decided On : Jun-25-2014

Judge : Nadira Patherya

Appellant : Appellant

Respondent : Respondent

Judgement :

ORDER

SHEET CP NO.45 OF 2013 IN THE HIGH COURT AT CALCUTTA Original Jurisdiction ORIGINAL SIDE IN THE MATTER OF : UNIT CONSTRUCTION COMPANY PVT.LTD.AND M/S.JYOTI UDYOG BEFORE: The Hon'ble JUSTICE PATHERYA Date : 25th June, 2014.

MR.AMITAVA DEB, ADVOCATE FOR PETITIONING CREDITOR MR.ANIRBAN RAY, MR.AIMAN ABDULLAH, MS.S.CHATTERJEE, ADVOCATES FOR COMPANY The Court : By order dated 7th May, 2013 the company was directed to pay Rs.30 lakhs inclusive of interest and costs in ten equal monthly instalments.

FiRs.instalment was to be paid on and from 1st June, 2013 but the said payment could not be honoured by the company in time.

The payment of Rs.6 lakhs has been made belatedly.

Therefore, the agreement between the parties has failed and interest on the balance sum must be applied.

Accordingly, let C.P.No.45 of 2013 be admitted for the sum of Rs.22,62,356/- which is the amount payable on account of principal by the company to the petitioning creditor after being given credit for Rs.6 lakhs paid by it to the petitioning creditor.

The said sum will carry interest at 8% per annum on the reducing balance on and from the date of issuance of statutory notice till realisation.

An opportunity is given to the company to make payment of the sums mentioned above in the following manner.

i) Rs.1.25 lakhs be paid for the fiRs.six months.

The fiRs.instalment be paid by 30th July, 2014 and the 30th day of each succeeding month.

ii) On and from the seventh instalment to the twelfth instalment, let payment be made at Rs.1.50 lakhs per month.

iii) On and from the eighth instalment to the thirteenth instalment, let payment be made at Rs.1.75 lakhs per month and iv) On and from the fourteenth instalment, let sums at Rs.2 lakhs be paid by the company to the petitioning creditor till liquidation of outstandings.

It is pertinent to note that the matter has come at the post advertisement stage and in the event of any default in payment the company shall be wound up forthwith.

The Official Liquidator will be at liberty to take possession of the books, records and documents so also the assets and properties of the company forthwith.

If on the contrary payment is made and dues liquidated, C.P.No.45 of 2013 shall be permanently stayed.

The advertisement costs be paid by the company on liquidation of the sums mentioned above unless otherwise agreed to between the parties.

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

(PATHERYA, J.) sb.

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