

Appellant Vs. Respondent

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Court : Kolkata

Decided On : Jul-17-2014

Judge : Nadira Patherya

Appellant : Appellant

Respondent : Respondent

Judgement :

ORDER

SHEET CP No.461 of 2013 IN THE HIGH COURT AT CALCUTTA Original Jurisdiction ORIGINAL SIDE CAPTAIN DEALCo.P.

LTD.AND RUCHI REALITY HOLDINGS LTD.BEFORE: The Hon'ble JUSTICE PATHERYA Date : 17th July, 2014.

Mr.Anuj Singh, Adv.for the petitioner Mr.Saumya Ray, Adv.for the company The Court : The claim in this winding up application arises on account of sums paid as earnest money to the company by the petitioning creditor.

The case of the petitioning creditor is that the parties had agreed to complete the property deal and for such purposes the petitioning creditor paid Rs.51 lakh as earnest money.

The same was to be held by the company without the cheque being encashed till due diligence was completed.

The company not only encashed the cheque but on failure of the transaction made, no effort to repay the said sum.

Hence a statutory notice was issued on 4th January, 2013 to which a reply has also been given by the company on 9th January, 2013.

In the said reply the company has in view of the good relation existing between the petitioning creditor and the company and also its reputation has agreed to refund the said sum in instalments.

Admittedly the company has enjoyed the said sum paid by the petitioning creditor, therefore has also agreed to repay the same.

Accordingly, C.P.461 of 2013 is admitted for the sum of Rs.51 lakh and an opportunity is given to the company to repay the said sum within a week from the date of receipt of this order or communication thereof by the petitioning creditor.

In the event no payment is made by the company within the time specified above, the sum admitted will carry interest at 12 % per annum on and from the date of issuance of statutory notice till realisation and only in that event the payment be made within six weeks from the date of receipt of this order.

In case of default the petitioning creditor will be at liberty to advertise once in Sambad Pratidin and The Statesman.

Matter is made returnable eight weeks hence.

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

TR/ (PATHERYA, J.)

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