

Appellant Vs. Respondent

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SooperKanoon Citation : sooperkanoon.com/1166408

Court : Kolkata

Decided On : Oct-28-2014

Judge : Biswanath Somadder

Appellant : Appellant

Respondent : Respondent

Judgement :

ORDER

SHEET CP759of 2014 IN THE HIGH COURT AT CALCUTTA Original Jurisdiction ORIGINAL SIDE IN THE MATTER OF : RAWAT ISFS LTD.AND IN THE MATTER OF: COMMERCIAL ENTERPRISES BEFORE: The Hon'ble JUSTICE BISWANATH SOMADDER Date : 28th October, 2014.

Appearance : Mr.K.C.Garg, Adv.for the petitioner The Court : On 25th September, 2014 the matter was adjourned till after vacation for further consideration only in order to give an opportunity to the company to be represented and contest the winding up application.

However, it appears that the company is not interested in contesting the winding up application in spite of being put on notice.

From the averments made in the instant winding up petition and from the statutory notice dated 12th June, 2014, it appears that a sum of Rs.4, 44, 265/- is due and

payable to the petitioning creditor by the company.

So far as the other dues, as reflected in the statutory notice is concerned, the same cannot be a subject matter for adjudication in the winding up proceeding.

So far as the statutory notice is concerned, the same has not been replied to by the company.

As such, there is a presumption of acknowledgment of debt by the company and its inability to pay off its debt.

CP759 of 2014 is, therefore, admitted for a principal sum of Rs.4,44,265/- together with interest thereon at seven percent per annum to be calculated from the date of the statutory notice till actual payment.

If the company pays off the entire amount including interest and cost within a period of four weeks from date, the petition will remain permanently stayed.

In default, the petition will be advertised once in The Statesman and once in Aajkal.

Publication in the Official Gazette will stand dispensed with.

The matter will appear one week after the Christmas vacation under the same heading.

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

(BISWANATH SOMADDER, J.) akb/

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