

**HIGH COURT OF JUDICATURE FOR RAJASTHAN BENCH AT
JAIPUR**

S.B. Company Petition No. 21/2016

1. Multani Pharmaceuticals LTD. Having its Registered office at H-36, Connaught Place, New Delhi 110001 through its Chief Manager Sanjay Kumar S/o Sh. Lal Dip Singh aged about 47 years and R/o A-161, 1st Floor, West Vinod Nagar, New Delhi- 110092.

...Petitioner

Versus

1. Rajasthan Drugs & Pharmaceuticals Limited, Road No. 12, VKI Area, Jaipur- 302013, Rajasthan.

...Respondents

S.B. Company Petition No.23/2015

Ankur Drugs and Pharma Limited, a company incorporated under the Companies Act, 1956, having its registered office at C-306, Crystal Plaza, Andheri Link Road, Andheri (West), Mumbai 400 053, through its Director and Authorised Signatory Mr. Girraj Moolchand Vijayvargiya.

...Petitioner

Versus

Rajasthan Drugs and Pharmaceuticals Limited, a Company incorporated under the Companies Act, 1956, having its Registered office at Road No. 12, VKI Area, Jaipur.

...Respondents

S.B. Company Application No. 34/2015

IN

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Rajasthan Drugs and Pharmaceuticals Limited, a Company incorporated under the Companies Act, 1956, having its Registered office at Road No. 12, VKI Area, Jaipur.

...Respondents

For Petitioner(s) : Mr. Vaibhav Kasliwal.

Mr. Anurag Kalavatiya,

Mr. Akshay Sharma.

For Respondent(s) : Mr. N.L. Agarwal.

HON'BLE MR. JUSTICE ALOK SHARMA

Order

26/05/2017

Vide order dated 04.11.2016 winding up petition was admitted and it was directed that the respondent-Company would not alienate and/ or create third party rights by way of encumbrances or otherwise on its immovable property.

On 05.05.2017 Mr. N.L. Agarwal, counsel for the respondent-Company submitted that the Cabinet, Government of India had taken a decision on 28.12.2016 to pay off the liabilities of the creditors of the respondent-Company including the petitioner-Company. On the submission made, this Court was on the view that the mere promise of discharge of admitted debt due to the creditor was not sufficient by itself to ward-off a winding up petition. The Court required that the affidavit of the Managing Director of the respondent-Company be filed as to the time and manner of the discharge of the admitted debt due to the petitioner-Company to its satisfaction. Pursuant to the aforesaid directions by this Court, an affidavit of the Managing Director of the respondent-Company one Shri K.M. Prasad has been filed. In Para-10 reads as under:-

“That the Board of RDPL has taken decision to meet out the undisputed liability of RDPL to the petitioner-Company as early as possible on priority basis on receipt of the sale proceeds of the immovable, movable assets of the

company by E-auction to be undertaken by the MSTC Ltd.”

Mr. N.L. Agarwal, counsel for the respondent-Company submitted that in view of the affidavit of Shri KM Prasad, restrain on the alienation/ sale or otherwise creation of encumbrance on the immovable property of the company as directed by this Court under its order dated 04.11.2016 be removed. He submits that this would be necessary for in the course of making arrangement to pay off the debt of the petitioner-Company, the respondent-Company may indeed be required to restructure/ sell its assets in part or even in the whole.

Mr. Vaibhav Kasliwal appearing for the petitioner-Company on instructions of his client states the respondent-Company's satisfaction with the affidavit of the Managing Director of the respondent -Company, Shri K.M. Prasad that the debts of the petitioner-Company would be paid off as early as possible on priority basis on the receipt of the sale proceeds of immovable and movable assets of the company through E-auction to be undertaken by the MSTC Ltd. More particularly in view of the fact that in Para-12 of the affidavit where it has been stated that the process to discharge the debt of the petitioner-Company would be completed within six months.

In view of the aforesaid, the winding up petition also applications pending therein stand disposed of as infructuous. However in the event of the breach of the statement in the affidavit of the Managing Director of the respondent-Company as

filed before this Court, the petitioner-Company shall be free to revive the petition/ application/s.

Resultantly, the Company Application No.34/2015 stands disposed of accordingly.

(ALOK SHARMA), J.

Himanshu Soni

29-31.

RAJASTHAN HIGH COURT



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