

(2015) 01 CAL CK 0080
In the Calcutta High Court
Case No : C.P. No. 839 of 2014

Vishwarupa Steel Pvt. Ltd.

APPELLANT

Vs

Crackers India (Alloys) Ltd.

RESPONDENT

Date of Decision : 29-01-2015

Acts Referred:

Citation : (2015) 3 WBLR 650

Hon'ble Judges : Biswanath Somadder, J

Bench : Single Bench

Advocate : Aiman Abdullah, for the Appellant

Final Decision : Dismissed

Judgement

Biswanath Somadder, J—On 13th November, 2014, this Court had admitted the winding up petition and also gave an opportunity to the company to pay off the entire dues inclusive of interest and cost within a certain time frame. In default, the petition was to be advertised in two newspapers. At the time of hearing of the matter, it appears that the petitioning creditor did not take any step in terms of the order dated 13th November, 2014, to have the petition advertised in two newspapers, notwithstanding the fact that the company did not pay off the entire dues of the petitioning creditor inclusive of interest and cost within the time frame as specified in the said order dated 13th November, 2014.

2. The petitioning creditor's bona fides are suspect. A winding up proceeding cannot be used as a leverage to for the purpose of extricating monies from companies simply upon obtaining an initial order of admission of the winding up petition, in the nature of the order dated 13th November, 2014. The petitioning creditor was duty bound, in terms of the order dated 13th November, 2014, to advertise the winding up petition, once the company defaulted in paying off the entire dues inclusive of interest and cost within the time frame as specified in the order dated 13th November, 2014. However, the petitioning creditor did not do so and in stead, now, seeks further time for publication of the advertisements in

the two newspapers as specified in the order dated 13th November, 2014.

3. This Court, for reasons stated above, is unable to accede to the request of the petitioning creditor and dismisses the winding up application without, however, any order as to costs. Dismissal of the winding up petition shall not cause prejudice to the rights of the petitioning creditor to pursue its remedies before an appropriate forum in accordance with law.