

COMPANY LAW BOARD
PRINCIPAL BENCH
NEW DELHI

CP NO. 2/2015

CA NO.

PRESENT: CHIEF JUSTICE M. M. KUMAR
CHAIRMAN

ATTENDANCE-CUM-ORDER SHEET OF THE HEARING OF PRINCIPAL BENCH OF THE
COMPANY LAW BOARD ON 15.03.2016

NAME OF THE COMPANY: **M/s. Deepak Vegpro Pvt. Ltd. & Ors.**

Vs.

M/s. Shree Hari Agro Industries Ltd. & Ors.

SECTION OF THE COMPANIES ACT: 250, 237 & 247 of the Companies Act 1956

<u>S.NO.</u>	<u>NAME</u>	<u>DESIGNATION</u>	<u>REPRESENTATION</u>	<u>SIGNATURE</u>
1.	Narendra M Sharma	Advocate	Petitioners	
2.	Vivek Malik	Advocate	Petitioners	
3.	Shweta Pri Deb Ray	Advocate	Respondents	



ORDER

This court had issued interim directions vide order dated 10.08.2015 which was challenged in appeal before Kolkata High Court. The interim order passed by this Court was set aside by Kolkata High Court on the ground that this court has no jurisdiction to pass interim direction.

On the last date of hearing learned counsel for the Petitioner had stated that the judgment and order dated 14.09.2015 passed by the Kolkata High Court was in the process of challenge before Hon'ble the Supreme Court by filing Special Leave Petition. The matter was adjourned to seek status of proceeding before Hon'ble the Supreme Court.

Learned counsel for the petitioner has apprised the court that the vide order dated 14.12.2015 Hon'ble Supreme Court in SLP No.34188/2015 has stayed the

operation of the order dated 14.9.2015 passed by Kolkata High Court. The basic question is as to whether this court has jurisdiction to pass interim order during the pendency of a petition filed under section 237(b), 247 and 250 of the Companies Act. That question was answered in the negative by Kolkata High Court. The aforesaid order has now been stayed by Hon'ble Supreme Court on 14.09.2015.

Learned counsel further states that Petitioner No.1 became secured creditor by assignment of Respondent No.1-company on 17.01.2007 and first charge was created on its assets. A copy of the assignment agreement has been placed on record. It was thereafter that Respondent No.1-company entered into a loan agreement with a related company namely Respondent No.2. The aforesaid agreement further creates first charge over all assets against loan facility without the consent of BIFR and to the detriment of the petitioner. The aforesaid facts are noted in the order dated 10.08.2015 and interim order was passed by observing that Respondent No.1-company shall refrain from making any payment to Respondent No.2 till the next date of hearing. Learned counsel has stated that Respondent No.1 company continued making payment to Respondent No.2 which is against the letter and spirit of order dated 10.08.2015 which remained stayed because of the view taken by Kolkata High Court. The order dated 10.08.2015 has sprung back in operation after the order of Kolkata High Court has been stayed by Hon'ble the Supreme Court.

Keeping in view the aforesaid it is directed that Respondent No.1-company shall refrain from making any payment to respondent No.2 any further till the next date of hearing. That apart, order dated 10.08.2015 shall continue to operate in all other respects. The petitioners are at liberty to communicate a copy of this order alongwith a copy of order dated 10.08.2015 to any bank dealing with respondent No.1 company.

Respondent may file their reply within four weeks with a copy in advance to the counsel for the petitioner. Rejoinder if any be filed within two weeks thereafter with a copy in advance to the counsel for the respondents.

List on 6.5.2016 at 10.30 am.


(CHIEF JUSTICE M.M. KUMAR)
CHAIRMAN

Dated: 15/3/2016
(Vidya)