



REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA
AT NAIROBI (NAIROBI LAW COURTS)
WINDING UP CAUSE 34 OF 1987
IN THE MATTER OF EAST AFRICAN PUBLISHING HOUSE LTD
AND
IN THE MATTER OF THE COMPANIES ACT (CAP 486)
RULING

This winding up petition before the court is presented by Cambridge University Press, the applicant under the provisions of the Companies Act (Cap 486) Laws of Kenya

Petitioner in its petition submits that the Respondent East African Publishing House is indebted to the petitioner in the sum of shs. 1,188,698.00 under the Arbitration award made in H.C.C.C. No 448 of 1977 plus accrued interest at the rate of 8% per annum from the date. The said amount it is submitted was duly demanded from the respondent and it is in the circumstances deemed that the Respondent is unable to pay its debt under Sec. 220 of the Companies Act.

For this reason the petitioner prays that;

East African Publishing House Ltd., may be wound up by the court under provisions of the Companies Act or

That such other may be made in the premises as to the court shall seem just.

The petition for winding up is being supported by some of the creditors these are, briefly:

1. Proost Paper (E.A.) Ltd.

Creditors amount of debt is shs 337,000/-

2. General Printers Ltd.

Creditors amount of debt is shs. 121,944/20

3. Wiggins Teaps (k) Ltd.

Creditor amount in this respect is claimed to be shs. 235,005/00

Julia Kathuni Gitobu claims an unspecified amount but at the hearing her advocates or record S.G.

Mbaabu and Co., - were not present during the proceedings.

Miss Sally Githere appeared for Industrial Commercial Development Corporation. She opposes the winding up petition she submits that Industrial Commercial Development Corporation are owed a sum of shs. 4,033,405/90 plus a further substantial amount in accrued interest. The Industrial Commercial Development Corporation are the debenture Holders of the company and Miss Githere from the Dar informed the court that receivers have been appointed by her client together with another party.

Mr Bakul Kothari appeared for his firm of Auditors and Accountants for which he is the proprietor and opposed the winding up petition. His firm is owed a sum of shs 233,600/- for professional services rendered.

Miss Githere Counsel for Industrial Commercial Development Corporation during her submissions urged the court to grant her time so as to enable the Receiver to file a Statement of Affairs prior to the final determination of the petition.

This application is supported by Mr Kothari one of the Creditors.

Mr Beverell strongly opposed this application for the Petitioner and contends that the hearing of the petition be concluded and order as prayed be made.

He has cited to me Palmer's Company Law Vol. 1 1982 ED in support of his argument. He contends that the creditors has a prima facie right to an order and that the discretion be exercised with certain established principles.

Counsel who are in support i.e. M/S A.B. Shah, Kovada Mauch, adopt and support Mr Deverell's submission in this respect.

I now propose to deal with Miss Githere's application for extension of time. I am of the view that it is in the greater interest of justice indeed the interest of all the parties concerned demand that this petition be stood over to enable the Receivers to submit their Statement of Affairs. Such a course of action is, I consider, likely to assist the court to arrive at a just decision. I also note and taken account that Industrial Commercial Development Corporation is one of the parties having, considerable interest in the affairs of the East African Publishing House.

For these reasons I find this application reasonable and one with merit.

In exercise of courts discretion, I grant the adjournment and direct that the Receiver appointed be at liberty to file statement of affairs within 30 days from todays date.

The hearing of the petition of winding up is stood over till then. 70 days costs, only are awarded to the petitioner. All the other related costs are reserved till the final determination of the wining up application.

Orders accordingly.

October 21, 1987

AMIN

JUDGE