

THE HIGH COURT OF SINDH, KARACHI
[COMPANY BENCH]

J.C.M. No. 10 of 2019
In the matter of the Companies Act, 2017
And
Apollo Textile Mills Limited & others

Petitioner 1	:	Apollo Textile Mills Limited through Mr. Saalim Salam Ansari, Advocate, alongwith M/s. Shoaib Ahmed Khoso and Okash Mustafa, Advocates.
Petitioners 2-5	:	Soneri Bank Limited and three [03] others through M/s. Muhammad Shoaib Rashid and Shahid Iqbal Rana, Advocates.
Bank of Punjab-Objector	:	Through Mr. Muhammad Younis Awais, Advocate, who holds brief for Mr. Jam Asif Mehmood Lar, Advocate.
NBP – Objector	:	Through Mr. Muhammad Nawaz, Advocate.
Intervener	:	M/s. Orix Leasing Pakistan Limited through Mr. Ali Raza, Advocate.
On Court notice	:	Securities and Exchange Commission of Pakistan through Syed Ebad-ur-Rehman, Advocate.
Date of hearing	:	15-05-2025
Date of order	:	15-05-2025

ORDER

Adnan Iqbal Chaudhry J. - The petition is under section 279 of the Companies Act, 2017 [Act] to sanction a Scheme of Arrangement between Petitioner No.1 and its creditors. Four creditors who constituted 76.64% of the value of secured creditors had accompanied Petitioner No.1 as co-Petitioners 2 to 5. On 29-05-2019, the Court had ordered a meeting of the creditors to vote on the Scheme of Arrangement. As per report dated 02-08-2019 submitted by Chairman of the creditors' meeting under Rule 57 of the Companies (Court)

Rules 1997, the Petitioners 2 to 5 voted in favor of the Scheme thus fulfilling the requirement of three-fourth value of creditors in section 279(2) of the Act. However, the petition remained pending owing to objections by non-consenting creditors. On 16-04-2021, Petitioner No.3 (MCB Ltd.) filed CMA No. 148/2021 to withdraw consent from the Scheme. It was averred that the plant and machinery that was collateral for the Scheme had been removed/misappropriated by the Petitioner No.1, thus committing breach of the Scheme, which also lead to a complaint against Petitioner No.1 for willful default under section 20(7) of the FIO, 2001. Mr. Muhammad Shoaib Rashid, learned counsel for Petitioners 2 to 5 further states that after the subject Scheme, there was another agreement between Petitioner No.1 and its creditors to allow Petitioner No.1 to make repayments; but then Petitioner No.1 defaulted again; and now he has instructions from Petitioners 2, 4 and 5 as well to withdraw consent from the Scheme. When confronted with changed circumstances, Mr. Saalim Salam Ansari, learned counsel for Petitioner No.1 states that he has no instructions from Petitioner No.1.

2. In view of the foregoing, it appears that subsequent events have over-taken the subject Scheme of Arrangement and its approval by Petitioners 2 to 5. Today, the Scheme is not being supported by the required three-fourth value of creditors. In such circumstances, no sanction can be accorded to the Scheme. The petition is therefore dismissed.

JUDGE

SHABAN*