HON'BLE SRI JUSTICE A. RAJASHEKER REDDY

COMPANY APPLICATION NO.1611 of 2014

IN

C.P. NO. 215 OF 2010

ORDER:

This application is filed by the Official Liquidator on behalf of M/s. Laran Sponge and Minerals (P) Limited (In Liqn.) for the following reliefs:

(i) to appoint Sri M.Anil Kumar Advocate to file petition before the Debt Recovery Tribunal at Hyderabad and appear/ represent/ contest the case on behalf of the Official Liquidator of M/s. Laran Sponge and Minerals (P) Ltd., (In Liqn.).

(ii) fix the fee of the Advocate so appointed by this Court as also permit the Official Liquidator to pay the Advocate fee besides expenses from the funds of the Estate and Establishment Fund Account being maintained by the Official Liquidator since the company in liquidation does not have any funds to its credit.

In support of this application, the Official Liquidator filed an affidavit stating that this Court vide order dated 18.07.2011 made in C.P.No.215/2010 appointed Official Liquidator as its Liquidator for winding up of M/s.Laran Sponge and Minerals (P) Ltd. The Official Liquidator addressed a letter dated 20.09.2011 to the Sub-Registrar, Halkundi Village, Bellary Taluq, Karnataka requesting him not to transfer, alienate, create any third party charge over the property of the company in liquidation. Basing on the letter issued by the Official Liquidator, the Sub-Registrar refused to register the sale certificate issued by the Indian Bank who had conducted auction of the assets of the company and its guarantors on 29.09.2010 in response to sale notice issued under the provisions of SARFASI Act.

Aggrieved by the refusal of the Sub-Registrar, to register the sale certificate, Indian Bank filed Writ Petition bearing No.33655/2011 seeking writ of mandamus declaring the inaction of Sub-Registrar, Makundi Village, Bellary District (R-1), Sub-Registrar, Sanjeeva Reddy Nagar, Hyderabaed (R-2) and Sub-Registrar, Kukatpally, Ranga Reddy District (R-4) in receiving and registering the sale certificate issued by the Bank under the provisions of SARFASI Act.

The Indian Bank has issued a letter dated 22.06.2012 calling upon the Purchaser to adjust the outstanding liability in the loan account No.929965806 in respect of the term loan granted to it and demanding the repayment of the entire principle together with interest. Being aggrieved by the said letter, the purchaser also filed writ petition No.19297/2012 questioning the issue of the letter and for declaring the action of the Indian Bank, as illegal and arbitrary on account of their failure to legally transfer and deliver possession of the auctioned property for enabling them to create mortgage.

The Indian Bank also filed COMPA.No.1972/2011 before this Court seeking a direction to the Official Liquidator to clarify the communication dated 20.09.2012 to the Sub-Registrar, Halkondi Village, Bellary Taluq, Karnataka regarding not to transfer, alienate, create any third party charge over the property. The purchaser has also filed COMPA.No.421/2013 to set aside the sale notice dated 28.08.2010.

All the above writ petitions and applications were heard together and same were disposed off by common order dated 29.04.2013 by the Hon'ble Company Court granting the relief claimed in W.P.No.19297/2012 and dismissed W.P.No.33655/2011 and COMPA.No.1972/2011 and also allowed Company Application No.421/2013.

Being aggrieved by the dismissal of W.P.No.33655/2011 and COMPA.No.1972/2011, the Indian Bank preferred writ appeal No.1420 and 1424/2013 and OSA.No.34 & 35 of 2013 which were allowed vide order dated 11.11.2014 by the Division Bench of this Court holding that all the questions and controversies are disputed question of fact and law and could not be decided in writ jurisdiction and hence held that granting of relief to the auction purchaser was not sustainable under the law and was pleased to set aside the same and dismissed the writ petition leaving all the questions open and keeping it open for the auction purchaser to approach the Debt recovery Tribunal so also Official Liquidator or any other claimant.

In the circumstances stated above, it is just and necessary for the Official Liquidator of M/s.Laran Sponge and Minerals (P) Ltd.,(In Liqn.) to file a petition before the Debt Recovery Tribunal at Hyderabad and to contest/represent the case through the Advocate.

Heard learned counsel for the Official Liquidator.

Having heard the learned counsel for the Official Liquidator and in view of the facts and circumstances stated in the affidavit, this application is allowed appointing Sri.M.Anil Kumar Advocate to file petition before the Debt Recovery Tribunal at Hyderabad and appear/represent/contest the case on behalf of the Official Liquidator of M/s.Laran Sponge and Minerals (P) Ltd.(In Liqn.).

With regard to the fees, it is stated by the learned counsel for the Official Liquidator that this Court in similar circumstances in C.A.No.719 of 2014 in C.P.No.126 of 2012 fixed advocate fee at Rs.50,000/-. As such, the advocate fee is fixed at Rs.50,000/-. The Official Liquidator is permitted to pay 50% of the fee for the present at the time of making application and the balance fee shall be paid on the disposal of the case.

A. RAJASHEKER REDDY, J

Date: 31-12-2014
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