

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
COMPANY APPLICATION (L) NO. 446 OF 2015
IN
COMPANY PETITION NO. 862 OF 2004

Ashok Kumar Goenka

...Applicant

In the matter between

Asian Paints India Ltd.

...Petitioner

vs.

Sarigon Organics Ltd. & Anr.

...Respondents

Mr.S.K. Dubey i/b. Ms.Swati Sawant for Applicant.
Mr.Dikshat Mehra i/b. Rajani Associates for Petitioner.
Mr.Vedchetan Patil for Official Liquidator.
Mr.Saurabh Butala for Hirwal Education Trust.

CORAM : S.C. GUPTE, J.

21 JULY 2015

P.C. :

The Applicant seeks recall and setting aside of a winding up order. This Court, on the last occasion, noted the offer of the Applicant to pay the dues of the Sales Tax Department, TPL Plastic Ltd. and the Petitioning Creditor, which aggregate to Rs.38,05,696/-. The amount has since been deposited by the Applicant with the Official Liquidator. These deposits, which are the only existing debts against the company in liquidation, are confirmed by the Official Liquidator in its reply.

2 Learned Counsel for the Applicant on the last occasion had made a statement on his own that there was a disputed claim of about Rs.19,93,900/-, which the Applicant had offered to deposit with the Official Liquidator, subject to the pending disputes. It is, however, now submitted by learned Counsel for the Applicant that there is no claim, as yet, made by the General Manager, District

Industries Centre, Alibaug in this behalf and that even if any claim is made, such claim may not exceed Rs.4 to 5 lakhs. It is confirmed by the Official Liquidator that the General Manager, District Industries Genre, Alibaug, has not lodged any claim with the Official Liquidator in response to the public notice issued by the Official Liquidator. Apart from this, an amount of Rs.3,68,796/- is held by the Official Liquidator to the account of the company in liquidation. Learned Counsel for the Applicant has no objection to the Official Liquidator adjusting his expenses from this amount and retain the balance amount with the Official Liquidator towards the discharge of the claim, if any, by the General Manager, District Industries Genre, Alibaug. He also undertakes to pay the dues of the General Manager, District Industries Centre, Alibaug if they are found to be in excess of the amount retained by the Official Liquidator.

3 In the premises, the following order is passed :

(i) The winding up order dated 30 June 2010 is recalled and set aside;

(ii) The Official Liquidator to make the following disbursement from the amount held by the Liquidator to the account of the company in liquidation;

(a) Sales Tax Department – Rs.7,95,696/-,

(b) TPL Plastic Limited - Rs.4,10,000/-

(c) M/s. Asian Paints (India) Ltd. (Petitioning Creditor) – Rs.26 lakhs.

(iii) The costs, charges and expenses of the Official Liquidator in the matter of winding up shall be recovered from out of the balance amount of Rs.3,68,796/- held by the Official Liquidator to the account of the company in liquidation. Such costs, charges and expenses are quantified at Rs.25,000/-;

(iv) The balance amount held by the Official Liquidator shall be invested and abide by the orders that may be passed by this Court.

3 Learned Counsel for the Applicant undertakes on behalf of the Applicant, who is the ex-director of the company in liquidation and also the Respondent company, to pay the dues of the General Manager, District Industries Centre, Alibaug, in the event, such dues are found to be in excess of the amount held by the Official Liquidator towards discharge of their dues.

4 The Company application is disposed of.

5 The Official Liquidator's Reports, namely, OLR No.349/2012 and 492/2013, are disposed of as infructuous, in view of the order passed on the company application.

6 The Official Liquidator is discharged.

(S.C. Gupte, J.)