

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY**  
**ORDINARY ORIGINAL CIVIL JURISDICTION**  
**COMPANY APPLICATION NO. 539 OF 2014**  
**IN**  
**COMPANY PETITION NO. 258 OF 2002**

J.J. Associates ... Applicant

Versus

The Official Liquidator of M/s. Hitech Jewellery  
Industries Limited (in liquidation) ... Respondent

Mr.Nikhil Mehta i/b. KMC Legal for the Applicant.  
Mr.S. Ramakantha, OL, present.

**CORAM : S.J. KATHAWALLA, J.**  
**DATED : 26<sup>TH</sup> MARCH, 2015**

**P.C.**

1. By the above Application, the Applicant – J.J. Associates has prayed for the following relief :

“(a) That this Hon'ble Court be pleased to order and direct the Respondent above named to forthwith remove their seal from the premises of the Applicant namely Galas bearing Nos. 1, 2, 3, 4, 101, 102, 103 and 104 in the building Hira Estate, situated at Rai Village, Shivneri Nagar, Bhayandar (West), District Thane as well as two galas bearing Nos. B-1 and B-2 located outside the said building

as well as the main gate of the said building (hereinafter collectively referred to as the said premises) and handover possession of the said premises to the Applicant herein”.

2. The facts which have led to the filing of the present Application are set out hereunder :

2.1. By an order of this Court dated 21<sup>st</sup> February, 2003 passed in Company Application No. 227 of 2002 in Company Petition No. 258 of 2002, the Official Liquidator was appointed as Provisional Liquidator in respect of the Company – M/s. Hitech Jewellery Industries Limited (in liquidation).

2.2. On 21<sup>st</sup> April, 2003 the representative of the Official Liquidator took possession of the factory premises situated on Plot No. 206 / 207 at Rai Villages, Shivneri Nagar, Bhyander (W), Dist. Thane i.e. galas, machineries, furniture, fixtures and fittings.

2.3. On 15<sup>th</sup> September, 2003 the Applicant filed Company Application No. 459 of 2003 for release of said premises on the ground that the same is wrongfully attached by the Official Liquidator.

2.4. On 29<sup>th</sup> December, 2003 O.A. No. 81 of 2001 filed by the secured creditor – Dena Bank for recovery of its dues from M/s. Hitachi Jewellery Industries Limited (in liquidation) before the Debt Recovery Tribunal, Mumbai was allowed.

2.5. On 25<sup>th</sup> February, 2004 the Debt Recovery Tribunal issued a Recovery Certificate against M/s. Hitachi Jewellery Industries Limited (in liquidation) and the said premises was included as part of the Recovery Certificate.

2.6. By an order dated 25<sup>th</sup> March, 2011, the Company Application No. 459 of 2009 filed by the Applicant was disposed of by this Court. By the said order the Applicant was directed to first make an Application before the Official Liquidator pointing out that the Official Liquidator has wrongfully taken possession of the said premises and the Liquidator was directed to file his report before this Court. Accordingly, the Applicant made an Application before the Official Liquidator on 7<sup>th</sup> June, 2011 and also produced all documents to establish the fact that the Applicant is the owner of the said premises.

2.7. The Official Liquidator by his letter dated 31<sup>st</sup> October, 2011 fixed a meeting on 16<sup>th</sup> November, 2011 with the secured creditors of M/s. Hitachi Jewellery Industries Limited (in liquidation) and the Applicant.

2.8. On 16<sup>th</sup> November, 2011 the Applicant produced all documents before the Official Liquidator pertaining to the said premises. However, no documents were produced by the secured creditors to support their claims.

2.9. Since the Official Liquidator thereafter failed to take any steps in the matter, the Applicant filed a fresh Company Application No. 67 of

2012 seeking directions against the Official Liquidator to remove the seal from the said premises.

2.10 On 3<sup>rd</sup> January, 2012 the Official Liquidator filed his report before this Court accepting the claim of the Applicant qua the said premises.

2.11 On 1<sup>st</sup> March, 2012 the Company Application No. 67 of 2012 was allowed to be withdrawn by this Court with liberty to the Applicant to move the DRT, Mumbai for appropriate reliefs as the said Company Application was opposed by the secured creditors claiming that the said premises formed the part of the Recovery Certificate issued by the DRT.

2.12. On 18<sup>th</sup> January, 2013 the Applicant filed Miscellaneous Application No. 21 of 2012 before the DRT seeking an order that the subject property be deleted from the Recovery Certificate issued by the DRT. The Presiding Officer, DRT, Mumbai after hearing the parties i.e. secured creditors and the Applicant allowed the said Application vide order dated 18<sup>th</sup> January, 2013 deleted the said premises from the Recovery Certificate and also directed to issue Corrigendum to that effect.

2.13. On 22<sup>nd</sup> January, 2013 the Corrigendum is issued by the Registrar, DRT-I, Mumbai whereby the said premises has been deleted from the said Recovery Certificate. One of the secured creditor – Indusind Bank being aggrieved by the order dated 18<sup>th</sup> January, 2013 passed in Miscellaneous Application No. 21 filed an Appeal before the DRAT,

Mumbai being Appeal No. 176 of 2014 on 25<sup>th</sup> April, 2014.

21.4 On 6<sup>th</sup> January, 2015 the said Appeal No. 176 of 2014 filed by Indusind Bank before the DRAT, Mumbai was dismissed.

3. The Application has therefore taken out the present Application seeking the above relief.

4. In view of the above facts and circumstances, the following order is passed :

i. The above Company Application is allowed in terms of prayer clause (a).

ii. The Official Liquidator is directed to remove the seal from the said premises and handover the same to the Applicant on or before 15<sup>th</sup> May, 2015.

iii. The Company Application is accordingly disposed of.

**(S.J. KATHAWALLA, J.)**