

**Comp.A.Nos.1236,
1239 of 2014 & 518 of 2015**

V.RAMASUBRAMANIAN,J.

While Comp.A.No.1236 of 2014 is by a Secured Creditor, seeking a direction to the Official Liquidator not to take possession of the mortgaged property, but to leave it open to the secured creditor to stand outside the winding up proceedings, the other Applications viz. Comp.A.Nos.1239 of 2014 and 518 of 2015 are by the Company against which winding up is sought.

2.Heard Mr.A.Davidson, learned counsel for the Petitioning Creditor, Mr.Omprakash for the Company, Mr.P.Atchuda Ramiah, learned Official Liquidator and Mr.R.Imayavarambhan, learned counsel for the Secured Creditors.

3.On 17.10.2014, this Court passed an exparte order, admitting the Company Petition. Thereafter, the Company came up with an Application in Comp.A.No.1239 of 2014, seeking to set aside the exparte order on various grounds, including the contention that a Civil Suit in C.S.No.488 of 2013, is already pending.

4. In the meantime, the Official Liquidator locked and sealed the premises forcing the Secured Creditor namely PNB Housing Finance Limited to come up with Comp.A.No.1236 of 2014, for a direction to protect their interest and the mortgaged property. Subsequently, the Company itself came up with an Application, seeking a direction to the Official Liquidator to open seal and lock of the Registered Office of the applicant Company.

5. As per the claim made by the Petitioning Creditor in paragraph No.10 of his main Petition, the principal amount due from 2 companies forming part of the same groups of Companies of the respondents is Rs.35,30,015/-. Together with interest the Petitioning Creditor has claimed a sum of Rs.48,13,568.10, not only from the respondent in this Company Petition, but also from other sister companies.

6. But, without raising any dispute, the respondent Company has come up with a Pay Order for Rs.33,53,940/-. That shows that the dispute is now confined only to the claim for interest made by the Petitioning Creditor. On a disputed claim for payment of interest, a Company cannot be wound up. Therefore, the Applications

Comp.A.No.1239 of 2014 and 518 of 2015 are allowed, the ex parte order admitting the Company Petition is recalled. The Official Liquidator is discharged and he is directed to remove the lock and seal of the and handover possession to the applicant Company.

7.In so far as Comp.A.No.1236 of 2014 is concerned, their apprehension was that by the Official Liquidator locking and sealing of the Registered Office of the applicant Company, their security interest will be in jeopardy. Now that the lock and seal has been removed, their grievance also stands addressed. Whatever claims they may have, they have to work out outside the winding up. Therefore, Comp.A.No.1236 of 2014 is also closed.

Post the main Company Petition for orders on 08.06.2015.

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03.06.2015

Note:Issue order copy on 04.06.2015

V.RAMASUBRAMANIAN, J.

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