

THE HON'BLE SRI JUSTICE C.V.NAGARJUNA REDDY

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COMPANY APPLICATION No.372 of 2015
in
COMPANY APPLICATION No.1038 of 2013
in
COMPANY APPLICATION No.618 of 2009
in
COMPANY PETITION No.58 of 1995

-
DATE: 24.03.2015

Between:

Federal Bank Limited

...Applicant

and

M/s.Kanosika Laboratories Limited (in liquidation)

...Respondent

COUNSEL FOR THE APPLICANT : SRI SRINIVAS CHITTURU

**COUNSEL FOR THE RESPONDENT : SRI M.ANIL KUMAR, COUNSEL
FOR OFFICIAL LIQUIDATOR**

THE HON'BLE SRI JUSTICE C.V.NAGARJUNA REDDY

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ORDER:

This Company Application is filed for a direction to the Official Liquidator to disburse the amount of Rs.2,96,00,000/- to the applicant.

The Official Liquidator has filed his report, dated 13.03.2015, wherein he has stated that in pursuance of order, dated 30.07.2014, in Company Application No.903 of 2014 in Company Application No.1038 of 2013 in Company Application No.618 of 2009 and also the decree, dated 03.08.2004, obtained by the applicant in O.A.No.779 of 1999 for a sum of Rs.19,04,58,863/-, the land and the structures of the Company in liquidation were sold and that by order, dated 15.12.2014, this Court in Company Application No.1458 of 2014 permitted the Official Liquidator to invite claims. That in compliance of the said order, the Official Liquidator has got advertisement published in Andhra Jyothi and Indian Express inviting claims from the creditors by stipulating 20.03.2015 as the last date for submission of claims. That as the time was still available, he did not know as to how many claims would be received. He has further stated that considering the availability of funds to the credit of the Company, there cannot be any serious objection for interim payment subject to the applicant furnishing an undertaking that in the event it is found at the time of adjudication that excess amount has been paid over and above its entitlement, then the same would be refunded without raising any

demur.

When this application came up on 17.03.2015, the same was adjourned to today as the last date fixed for making claims has not expired. This Court has also recorded the statement of the learned counsel for the applicant that an affidavit would be filed on its behalf stating that in the event any claim in favour of the workmen is adjudicated, the applicant bank would make good the claim. Accordingly, an affidavit has been filed by Mr. Arvind K, Chief Manager of the bank, wherein it is stated that if any claims are settled in favour of the workmen, the sale proceeds will be shared between the applicant and the workmen and that it will refund or reimburse any amount that may be found due from the applicant.

At the hearing, Sri M.Anil Kumar, learned counsel for the Official Liquidator submitted that a sum of Rs.2,96,00,000/- has been recovered by way of sale of the assets of the Company in liquidation; that only six claims including that of the applicant and the Assistant Commissioner, Central Excise, have been received and that out of the six claims, applicant is the sole secured creditor while the claim of the Assistant Commissioner, Central Excise falls under preferential category. He has further submitted that no claims from the workmen have been received so far. As the applicant has obtained a decree for about Rs.19,04,58,863/-, the amount recovered from out of the sale of assets of the Company in liquidation is not sufficient to satisfy the applicant's claim. Therefore, the question of payment to the other five claimants does not arise. However, in the light of the affidavit filed by the applicant that it will reimburse the claims if any received from the workmen are admitted in future by the Official Liquidator, I am of the opinion that the applicant is entitled to receive at least Rs.2,90,00,000/- for the present. Accordingly, the Official Liquidator is directed to disburse to the applicant the sum of Rs.2,90,00,000/- subject to the condition that if the workmen's claims exceed Rs.6,00,000/-, which is

allowed to be retained by the Official Liquidator, the applicant shall refund the same to the Official Liquidator to satisfy such claims.

The Official Liquidator shall ensure that the amount is transferred to the account of the applicant through Real Time Gross Settlement (RTGS) on or before 30.03.2015.

The Company Application is allowed to the extent indicated above.

C.V.NAGARJUNA REDDY, J

24th MARCH, 2015.

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