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

COMPANY APPLICATION No.502 of 2015

in

C.P.No.197 of 2010

31.03.2015

Between:

Syndicate Bank, Hyderabad

…Applicant

And

M/s.Lancer Life Sciences Pvt. Ltd.,

…Respondent

Counsel for the applicant: Mr.A.Krishnam Raju

Counsel for respondent: Mr. M.Anil Kumar
for Official Liquidator

The Court made the following:

ORDER:

This company application is filed by the sole secured creditor – bank to permit it to receive a sum of Rs.2 crores from out of Rs.2,52,25,000/- lying with it representing the sale proceeds paid to the loan account of the respondent.

I have heard Mr.A.Krishnam Raju, learned counsel for the applicant, and Mr.M.Anil Kumar, learned counsel for the Official Liquidator.

The applicant is the sole secured creditor of the respondent company. In pursuance of the permission granted by this Court, by order, dated 03.03.2015 in C.A.Nos.366 and 367 of 2012, the applicant has sold the assets of the company in liquidation by auctioning four items thereof by associating with the Official Liquidator. The applicant has accordingly filed C.A.No.193 of 2015 for confirmation of the said sale. By order, dated 10.03.2015 in C.A.Nos.366 and 367 of 2012, this Court has confirmed the sale of four items of the properties realizing a sum of Rs.2,52,25,000/-. The present application is filed by the applicant to permit it to receive a sum of Rs.2 crores from out of the said sum of Rs.2,52,25,000/- lying with itself.

In the affidavit filed in support of this application, it is stated that if the applicant is permitted to receive a substantial part of the amount at an early date, it would be able to show recovery in a non-performing asset and reduce the NPAs in their books. It is also stated in the affidavit that the applicant undertakes to keep an amount representing 10% of the total sale proceeds in fixed deposit making the amount available to the Official Liquidator as and when he intimates the workmen dues in accordance with the provisions of Section 529A of the Companies Act, 1956 (for short 'the Act'). A further undertaking was also given that any further amount will be paid on determination of the workmen dues by the Official Liquidator if such amount is payable under the provisions of Section 529-A of the Act.

At the hearing, Sri A.Krishnam Raju, learned counsel for the applicant, submitted that as the financial year is coming to a close today, the applicant is in need of an urgent order in order to reduce its NPA liability in the accounts.

Sri M.Anil Kumar, learned counsel for the Official Liquidator, submitted that so far claims have not been invited and that the quantum of workmen dues, if any is not known as of now.

The applicant is a nationalized bank and admittedly, the sole secured creditor. It is not in dispute that a sum of Rs.3,91,56,810/-, which is due and payable, is recoverable from the company in liquidation by the applicant and out of the said amount, only a sum of Rs.2,52,25,000/- is realized by sale of the assets of the company in liquidation. Being the sole secured creditor, the applicant is entitled to appropriate the entire amount recovered subject to satisfying the workmen dues, which hold *pari passu* charge over it. Inasmuch as the applicant is offering to keep a reasonable amount towards refund of payment of workmen dues, I feel it appropriate if the applicant is permitted to utilize a fair portion of the amounts realized, keeping the balance in fixed deposit for being utilized in the event of adjudication of workmen dues by the Official Liquidator, subject, however, to the condition that in the event, the workmen dues exceed the amount set apart in the fixed deposit, the applicant shall pay such balance amount towards workmen dues to the Official Liquidator.

On the above facts and circumstances of the case, the applicant is permitted to utilize Rs.2 crores and keep the balance amount of Rs.52,25,000/- in interest yielding fixed deposit towards workmen dues. In case the workmen dues exceed the said sum to be kept in fixed deposit, the applicant without any demour shall pay the same to the Official Liquidator if and when demanded.

The Company Application is accordingly disposed of.

(C.V.NAGARJUNA REDDY, J)

31st March, 2015

GHN