

HON'BLE SRI JUSTICE C.V.NAGARJUNA REDDY

COMPANY APPLICATION No.1030 of 2015

In

COMPANY PETITION No.184 of 2014

Date:21.07.2015

Between:

Official Liquidator of
M/s Continental Informatics
India Limited (in liqn)

..... Applicant

And:

N.Ramesh Babu Reddy,
S/o Late N.Raghava Reddy

.....Respondent

Counsel for the Applicant: Sri M.Anil Kumar

Counsel for the Respondent: None appeared

The Court made the following:

ORDER:

This Company Application is filed for a direction to the respondent to deliver possession of the assets, books and records of the company (in liquidation) forthwith to the Official Liquidator and to order that the costs of this Company Application do come out of the assets of the company.

In his affidavit, the Official Liquidator has averred that by order, dated 17.9.2014, in Company Petition No.184 of 2014, this Court has ordered winding up of M/s Continental Informatics India Limited (in liquidation) and appointed the Official Liquidator attached to this

Court as its Liquidator in terms of Section-449 of the Companies Act, 1956 (for short 'the Act'); that by virtue of the provisions of Section 456 of the Act, all the property, effects, records and actionable claims of a company which is being wound up shall be deemed to be vested in this Court through its Official Liquidator; that in addition to the assets, the books of accounts of the company (in liquidation) are very essential for the Liquidator to realize the assets, receive the dues and distribute the proceeds among the creditors, who are entitled for the same, as per law effectively; and that without these records and books of accounts of the company, the object of winding up is defeated.

The Official Liquidator has referred to and relied upon Section 468 of the Act in support of his plea that the Court may, at any time after making a winding up order, require any contributory for the time being on the list of contributories, and any trustee, receiver, banker, agent, officer or other employee of the company, to pay, deliver, surrender or transfer forthwith, or within such time as the Court directs to the Liquidator any money, property or books and papers in his custody or under his control to which the company is *prima facie* entitled and that under Rule-114 of the Companies (Court) Rules, 1959, it is the duty of all persons who hold custody of the property of the company, which is being wound up, to forthwith deliver possession of the same to the Liquidator of the said company.

The Official Liquidator further pleaded that he has addressed letter, dated 10.12.2014, to the respondent requiring him to hand over possession of the assets and books of accounts of the company (in liquidation) as envisaged under Section-456 of the Act; and that, however, the letter was returned undelivered with the

postal endorsement "not claimed". (The Official Liquidator has filed copies of the said letter and the postal cover containing such endorsement as Annexure-A).

This Court by order, dated 22.6.2015, ordered notice to the respondent while permitting personal service.

The Assistant Official Liquidator has filed a memo, dated 17.7.2015, vide USR.No.3158 of 2015, along with the returned postal cover, wherein it is stated that the notice sent to the respondent has been returned with the endorsement "unclaimed".

As the respondent has not claimed the notice of this Company Application, the same is deemed to have been served on him. The respondent failed to enter appearance and contest the case.

In the light of the above facts and having regard to the uncontroverted averments of the Official Liquidator and the undisputed legal position referred to in the affidavit, filed in support thereof, the Company Application is allowed as prayed for.

*JUSTICE C.V.NAGARJUNA
REDDY*

*21st July, 2015
DR*