

HON'BLE SRI JUSTICE C.V.NAGARJUNA REDDY

COMPANY APPLICATION No.1283 of 2014

In

COMPANY PETITION No.164 of 2004

Date:09.02.2015

Between:

M/s Pridvi Asset Reconstruction and
Securitization Co Ltd., repled by its
Authorised Signatory-M.S.Hussain

..... Applicant

And:

M/s Targof Pure Drugs Ltd (in liqn).,
repled., by the Official Liquidator
and two others.

...Respondents

Counsel for the applicant: Sri P.Sriharsha Reddy

Counsel for respondent No.1: Sri M.Anil Kumar

Counsel for respondent No.2: None appeared

Counsel for respondent No.3: Sri P.V.Markandeyulu

The Court made the following:

ORDER:

This Company Application is filed for grant of leave to the applicant to remain out of the winding up proceedings.

I have heard Sri P.Sriharsha Reddy, learned counsel for the applicant, Sri M.Anil Kumar, learned counsel for respondent No.1-Official Liquidator and Sri P.V.Markandeyulu, learned counsel for respondent No.3. Though notices have been served, respondent

No.2 has not entered appearance.

In Company Petition No.164 of 2004, this Court by order, dated 19.04.2007, has ordered respondent No.1-company to be wound up and appointed the Liquidator attached to this Court as the Official Liquidator of the company in liquidation.

The applicant has filed the Company Application with the plea that IDBI Bank, which has sanctioned and paid loan to the company in liquidation, has assigned the debt to it, vide Assignment agreement, dated 28.03.2014; that the same was approved by this Court by order, dated 15.09.2014 in Company Application No.1073 of 2014; and that following the same, the present Company Application is filed for permitting the applicant to remain outside the winding up proceedings and sell the properties belonging to the company in liquidation.

In the Company Application, the applicant has initially pleaded that IDBI bank was the sole secured creditor of the company in liquidation. However, based on the report of the Official Liquidator, the State Bank of India was subsequently impleaded as respondent No.2. Later, the applicant has filed Company Application No.1365 of 2014 seeking impleadment of M/s Edelweiss Asset Reconstruction Company Limited as respondent No.3 in Company Application No.1283 of 2014. This Court, by separate order passed today, has allowed the said Company Application and directed impleadment of the said company as respondent No.3.

The applicant has filed Company Application No.87 of 2015 for taking on record the additional affidavit. By another order passed by this Court today, the said Company Application has been allowed.

In the additional affidavit filed by M.S.Hussain, Vice President of the applicant-company, it is *inter alia*

stated that after the filing of the Company Application, it came to his knowledge that respondent No.3 also has first paripasu charge over the property admeasuring 9,670 square yards situated in Survey Nos.63/36, 63/27, 63/28 and 63/30 along with the applicant and that in Company Application No.1283 of 2014, the applicant has inadvertently pleaded that it alone has the first exclusive charge over the said property.

In paragraph No.6 of the additional affidavit, it is stated as under:-

“The said mentioning of the charge as exclusive charge is neither willful nor negligent but was due to lack of information. It is further submitted that from out of the amounts that would be recovered from the sale of the charged property, the applicant would share the same in paripasu with the proposed respondent No.3 to the extent it would be entitled to after deducting the expenses borne by and deposited with the Official Liquidator by IDBI Bank/applicant herein, after passing of the winding up order.”

Sri P.V.Markandeyulu, learned counsel for respondent No.3, submitted that with the unequivocal averment of the deponent of the additional affidavit filed in Company Application No.87 of 2015, as reproduced above, his client has no objection for allowing Company Application No.1283 of 2014.

The Official Liquidator filed his report, dated 03.11.2014, wherein he has, *inter alia*, stated that the Company Application may be allowed subject to the following conditions:

- (1) to direct the applicant to involve the Official Liquidator at every stage of the sale proceedings;

- (2) to direct the applicant to place the valuation report before this Court for its approval;
- (3) to direct the applicant to make available the Government fee on the sale proceeds realized ; and
- (4) to direct that the sale shall be subject to the confirmation by this Court.

Sri P.Sriharsha Reddy, learned counsel for the applicant, submitted that his client has no objection for incorporating the above-noted conditions.

In the light of the above-noted facts and the submissions of the learned counsel for the parties, the Company Application is allowed subject to the following conditions: -

- (1) Respondent No.3 shall be treated as first paripasu charge holder over the properties of the company in liquidation along with the applicant;
- (2) the applicant shall involve the Official Liquidator at every stage of the sale proceedings;
- (3) the applicant shall place the valuation report before this Court for its approval;
- (4) the applicant shall make available the Government fee on the sale proceeds realized ; and
- (5) the sale shall be subject to the confirmation by this Court.

*JUSTICE C.V.NAGARJUNA
REDDY*

*09th February, 2015
DR*