IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORIGINAL ORDINARY CIVIL JURISDICTION

COMPANY APPLICATION NO.180 OF 2016
IN
COMPANY PETITION NO.850 OF 1981

Ajay Podar ... Applicant

In the matter of :

Vijaya Bank Limited ... Petitioner
Versus
The Official Liquidator, High Court,
Bombay and the Liquidator of
National Traders Ltd. (In Liqn.) … Respondent

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Mr.Venktesh Dhond, Senior Counsel a/w Shriraj Dhru, Vishu Peri, Heenal Desai i/b Dhru & Co., for the Applicant.
Mr. Mahendhar Aithe, Company Prosecutor for Official Liquidator present.

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CORAM : S.C.GUPTE, J.

DATE : 16 NOVEMBER 2016.

P.C. :

. Heard learned Senior Counsel for the Applicant and the Company Prosecutor for the Official Liquidator.

2 The Applicant is a promoter and shareholder of National Traders Limited (in Liqn.). The shareholding pattern in respect of the Company (in Liqn.) is set out in Exhibit 'A' to the Company Application. The shareholding is partly owned by Podar family members, majority of whom are the deceased mother and father of the Applicant, and partly by Podar entities in which the Applicant and other members of his family hold a

stake.

3 The Applicant submits that he has the support of other shareholders. The Applicant has produced affidavits/declarations of other shareholders/legal heirs of his parents, in support of his application. The Podar entity, who is the other shareholder of the company, is itself another company in liquidation for whom the companion application, i.e. Company Application No.181 of 2016, is filed by the Applicant.

4 The Applicant seeks permanent stay of the winding up proceedings under Section 466 of the Companies Act, 1956, on the basis that practically the entire debt of the company (in Liqn.) is duly discharged and there is only an insignificant amount of debt, which remains outstanding as of date and which is still not adjudicated upon by the Official Liquidator.

5 The Liquidator has filed two replies in the matter. The first affidavit-in-reply dated 15 July 2015 filed by the liquidator indicates that in pursuance of the order passed by this Court on 17 March 2015 in Company Application No.59 of 2015 in the present Company Petition, the Official Liquidator had issued a public notice inviting claims from workers/creditors of the company (in Liqn.) and in pursuance of that notice, no claim was received from any worker or creditor. The only claim, which was outstanding as of that date was from Vijaya Bank, the petitioning creditor, which seems to have been settled by the Applicant. Vijaya Bank, on its part, has issued a certificate dated 27 September 2013, certifying the due settlement of its outstanding liability owed by the company (in Liqn.). It is certified that this liability has been discharged

from out of personal resources made available by the Applicant.

6 The second affidavit-in-reply dated 25 August 2016 filed by the Official Liquidator indicates that apart from the claim of Vijaya Bank referred to above, there are four other claims received in respect of the company (in Liqn.). Details of these claims are furnished in paragraph-9 of the affidavit-in-reply. It appears that the major claim, from out of these four claims, is the claim of Central Bank of India. Central Bank of India, it appears, has obtained decrees against the company (in Liqn.) in two summary suits. The decretal amounts of Rs.67,875.61 and Rs.2,21,854.07 are indicated in the affidavit of the official liquidator. Even, Central Bank of India has issued a certificate as of 28 October 2013, acknowledging the repayment of their entire dues from out of the funds made available by the Applicant herein and that there are no dues outstanding in respect of the company (in Liqn.).

7 It also appears from the record that Dena Bank had also some dues outstanding from the company (in Liqn.). Dena Bank has also confirmed that under an OTS settlement their dues have been duly recovered and there are no dues owed by the company (in Liqn.) to Dena Bank.

8 That leaves only the claims of Rs.3,883/- and Rs.5,306.25 (together with interest @15% per annum), said to be owed by the company (in Liqn.), respectively, to the Assistant Commissioner of Sales Tax and one Dashrathlal Mohanlal Sheth. Though these amounts are not adjudicated by the Official Liquidator, the Applicant has offered to deposit a sum of Rs.1,00,000/- with the Official Liquidator towards the discharge of these

dues. The Company Prosecutor, representing the Official Liquidator, accepts this amount as fair and reasonable amount towards the discharge of the two liabilities referred to above.

9 The Company (in Liqn.) holds immovable property in Jaipur, Rajasthan. This property is said to be tenanted by the members of Podar family. The rent was received in respect of this property from the tenants by the Official Liquidator so far.

10 In these circumstances, the application made by the Applicant for permanent stay under Section 466 of the Companies Act, 1956 appears to be *bona fide*. All debt owed by the company (in Liqn.) is either duly discharged or satisfactorily provided for. The material placed before the Court establishes that the winding up proceedings have been satisfactorily conducted and the debts of company (in Liqn.) have been duly discharged/provided for through personal funds of the promoters. There is satisfactory compliance of all obligations by the Directors of the company (in Liqn.).

11 In the premises, the Company Application is allowed in terms of prayer clauses (a) and (b).

12 The Liquidator's charges, quantified as Rs.50,000/-, shall be paid by the Applicant to the Official Liquidator within a period of three weeks from today.

13 The Official Liquidator shall, after intimating the two parties, whose

claims remain pending as noted above, and after hearing them and the Applicant herein in the matter, duly adjudicate the claims and thereafter disburse the same from out of the amount of Rs.1,00,000/- made available by the Applicant in terms of this order. The Applicant undertakes to fund the Official Liquidator with such further amount as may be necessary to discharge the dues of the two creditors as noted above, in the event the amount deposited with the liquidator is insufficient to discharge the adjudicated liability. In case there is any surplus with the Liquidator after discharging the adjudicated liability of the two creditors as noted above, the same shall be refunded by the Liquidator to the Applicant.

14 The Company Application is disposed of in the above terms.

15 The Registrar of Company shall show the company (in Liqn.) as an active Company, in pursuance of this order.

16 All parties, including the Registrar of Companies, to act upon an authenticated copy of this order.

(S.C.GUPTE, J.)