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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY**

**ORDINARY ORIGINAL CIVIL JURISDICTION**

**WRIT PETITION NO.1245 OF 2007**

Sudarshan Khaitan

...Petitioner

vs

State of Maharashtra An Others

...Respondents

.....

Ms. Karuna Yadav, i/b. N.M. Gandhi, for the Petitioner.

None for the Respondents.

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**CORAM : S.C. GUPTE, J.**

**DATED: APRIL 16, 2016**

**P.C. :**

. After the matter was heard at length and the order was dictated, Ms. Calcuttawalla, learned Counsel for the Respondent State, appeared in the matter and said she would like to make submissions. The matter was posted for hearing today. Today, learned Counsel for the Respondents is absent. The Petitioner has already been heard. The petition is disposed of as follows :-

1. This is a Writ Petition filed by Ex-Director of the Company, namely, M/s Kanakdhara Steel Limited (in liquidation). The Official Liquidator acting as Liquidator of the Company has been arrayed as Respondent No.5 to the petition. Grievance of the Petitioner is that in an application under Section 33C(1) of the Industrial Disputes Act, 1947, filed by Respondent No.4, who claims to be an employee of the

Company in liquidation, by order dated 11 May 2007, a Certificate of Recovery has been issued not only against the Company in liquidation, but also against the Petitioner herein, who was a Director of the Company prior to its liquidation.

2. None of the Respondents appears before the Court. Even on the last couple of occasions, none appeared for the Respondent/employee in whose reference the impugned Certificate of Recovery was issued.

3. This Court in case of **Association of Engineering Workers Vs. The Super Tool Co (P) Ltd.**<sup>1</sup> has made it clear that the Industrial court has no authority to direct the Directors to personally pay wages of workers. In an ordinary course, the Directors of the employer-company cannot be held to be responsible personally for payment of wages and dues of the creditors of the Company, including workmen. Barring instances where they are held liable for misfeasance, the Directors of the Company in liquidation cannot be held accountable for such dues.

4. In the present case, the liquidation proceedings are on. The Official Liquidator has already submitted a report concerning dues of workmen including Respondent No.4 herein in the present petition. The report indicates that the Official Liquidator has yet to adjudicate the dues of secured creditors and workmen. The report also indicates that there are properties being open plots with some constructions at Aurangabad, in addition to some immovable properties of the Company

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<sup>1</sup> Appeal No.941/1989, dated December 11, 1989,

in liquidation, which are in possession of the Official Liquidator. The Official Liquidator has proposed to sell the immovable properties and invite and adjudicate claims and disburse amounts in accordance with the orders of the Company Court as and when funds are available.

5. In that view of the matter, the petition deserves to be allowed. Accordingly, Rule is made absolute and the impugned Certificate dated 11 May 2007 in so far as it pertains to the Petitioner, is quashed and set aside.

**( S.C. GUPTE, J. )**