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

OFFICIAL LIQUIDATOR'S REPORT NO. 379 OF 2016
IN
COMPANY PETITION NO. 466 OF 1995

In the matter of the Companies Act,
I of 1956
And
In the matter of M/s.Ross Murarka
Finance Ltd. (In Liqn.)

Skypak Courier ...Petitioner

Ms.Yogini D. Chauhan, Dy.Official Liquidator.
Mr.Onkar Chandurkar for Official Liquidator.
Ms.M. Shah I/b. Anjana Seth & Co. for Indian Bank.
Mr.Cyrus Ardhershir with Mr.Swanand Ganoo, Mr.Ashir Amin I/b. Kanga & Co. for Ross Murarka (India) Pvt.Ltd.

CORAM : S.C. GUPTE, J.

9 DECEMBER 2016

P.C. :

Heard learned Counsel for the parties, including the Deputy Official Liquidator.

2 This is a report seeking directions for appointment of a valuer to value the mesne profits of a property described in prayer clause (a) of the report. This property forms part of a subject matter of a suit pending before this court. The companies- M/s.Ross Murarka Finance Ltd. (in liqudation) and M/s.Ross Murarka (India) Pvt.Ltd. are locked up in cross suits before this court concerning this property. Issues have been framed in the particular suit. In the company's suit, an issue is framed as to the mesne profits and compensation for occupation of the suit premises by M/s.Ross

Murarka (India) Pvt.Ltd. The Liquidator needs to prepare his case for claiming and proving mesne profits and for that purpose, seeks to ascertain the quantum of mesne profits, that can be properly claimed from and proved against the defendant -M/s.Ross Murarka (India) Pvt. Ltd. The Liquidator also seeks directions against the defendants M/s.Ross Murarka (India) Pvt.Ltd. for allowing the Liquidator and the valuer appointed by him to inspect the suit property.

3 Mr.Ardeshir, learned Counsel for Ross Murarka (India) Pvt.Ltd. opposes this application. Learned Counsel submits that an exercise of valuation of the suit property is a matter which typically concerns conduct of trial in the suit and it is not a matter which can be brought before a Company Court. Whilst that may be so, what the Liquidator seeks to do in the present OLR is to seek permission to appoint a valuer from his panel to ascertain the quantum of mesne profits, which can be appropriately claimed from and proved against the defendants. In other words, it is an exercise which the Liquidator intends to carry out for the purpose of preparing himself for the trial and inasmuch as such exercise involves expenditure, has approached the Company Court for a requisite direction. In the premises, it is appropriate that suitable directions are passed to enable the Liquidator to carry out the exercise. Carrying out of such exercise by the Liquidator under directions of the Company Court does not in any way impinge upon the respective rights of the parties in the suit.

4 Accordingly, prayer clauses (a) and (b) of the report are allowed. It is, however, made clear that the Official Liquidator shall give a prior intimation of his visit to the suit property to M/s.Ross Murarka (India) Pvt.Ltd. and also seek a convenient appointment from the latter for visiting

the property and inspecting the same. The Official Liquidator shall grant inspection of whatever documents are available with him and which he relies on in the suit.

(S.C. Gupte, J.)