

Shephali

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
COMPANY APPLICATION NO. 989 OF 2015
IN
COMPANY PETITION NO. 400 OF 2012**

Videocon Industries Limited	...Applicants
<i>In the matter between</i>	
Videocon Industries Ltd.	...Petitioner
<i>Versus</i>	
The Official Liquidator of M/s. Sharp Industries Ltd.	...Respondent

Mr. R.D. Soni, *with Mr. M.A. Sayed, i/b M/s. Ram & Co., for the Applicant.*
Ms. Yogini Chauhan, *Dy. Official Liquidator, is present.*

CORAM: G.S. PATEL, J
DATED: 17th March 2016

PC:-

1. The Company Petition was disposed of by a consent order dated 5th March 2014, a copy of which is at pages 11 to 14 of the Affidavit in Support of this Company Application. In paragraph 1B of that order, a schedule of seven payments was set out. The first five were made without default. The Company defaulted in payment of last two instalments. In consequence, the provisions of Clauses (2), (3), (4) and (5) immediately began to operate. The

Company Petition was, therefore, admitted, advertised and the Official Liquidator stood appointed as the Provisional Liquidator.

2. The Company was ordered to be wound up by an order dated 27th October 2014. Paragraph 5 of that order clearly stated that the Consent Order was without prejudice to the rights of the Petitioner to prosecute pending proceedings, including criminal proceedings against the Company or its Directors in the event of default. However, till the time of such default, the Petitioner was not continue with its prosecution of any such proceedings.

3. It is in these circumstances that leave is sought under Section 446 of the Companies Act, 1956 to join the Official Liquidator in the prosecution of criminal proceedings against the Company and its directors.

4. The Company Application is made absolute in terms of prayer clauses (a) and (b). There will be no order as to costs.

(G. S. PATEL, J.)