

IN THE HIGH COURT OF JUDICATURE AT BOMBAY**ORDINARY ORIGINAL CIVIL JURISDICTION****APPEAL (L) NO. 405 OF 2016****IN****OFFICIAL LIQUIDATOR REPORT NO. 142 OF 2015****WITH****NOTICE OF MOTION (ST.) NO. 3127 OF 2016**

Hindustan Dorr-Oliver Limited

.. Appellant

V/s.

The Official Liquidator,

High Court, Mumbai and ors.

.. Respondents.

Mr. Nitin Thakkar, Sr. Advocate a/w. Mr. Sumit Raghani i/b Agrud Partners for the Appellant.

Mr. L.T. Satelkar for Official Liquidator

Ms Swapnila Rane for Respondent No.2.

Mr. Mayur Khandeparkar a/w. Ms Sandhya Nambidi i/b Law Focos for Respondent No.3.

Ms Minal Naik i/b Nahush Shah Legal for Petitioning Creditors in CP Nos. 507 and 65 of 2014

**CORAM: DR. MANJULA CHELLUR, C.J. &
M.S.SONAK, J.**

DATE : 8 DECEMBER 2016.

P.C.

1] Heard learned counsel for the appellant as well as the respondents, including Bank of India which has come forward to assist the appellant company to revive.

2] By the impugned order dated 19th October 2016, the Company Judge has directed the Official Liquidator to take possession of the registered office premises of the appellant

company by 21st October 2016 at 11.00 a.m. Subsequently, the Official Liquidator has, in fact, took possession of the registered office premises of the appellant company and, according to learned counsel for the appellant, the Official Liquidator also took possession of other movable properties like three cars, which were included/part of the directions of the company court. By virtue of interference by the Appellate Court by its order dated 9th November 2016, after recording the undertaking given by the Executive Director of the appellant, the Appellate Court opined that the physical possession of the registered office premises of the appellant shall be handed over to the company by the Official Liquidator and however, the Official Liquidator shall continue to have only symbolic possession of the aforesaid premises.

3] In the light of Bank of India coming forward to revive the appellant company, we are of the opinion that they should have an opportunity to get revived and in that process, if they intend to settle the dues of this petitioner in the company petition, the same should be considered by the Company Court. However, the scheme of revival by Bank of India or any other bank if fails, the proceedings will commence from the stage at which the Official Liquidator has symbolic possession of the premises of the appellant. If the cars of the appellant company are in possession of the Official Liquidator, we find no reason as to why he should retain those cars since he has already handed over registered office premises of the appellant company. Accordingly, the appeal is disposed of.

4] In view of disposal of the main appeal, the notice of motion does not survive and the same is disposed of accordingly.

(CHIEF JUSTICE)

(M.S.SONAK, J.)