

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

**OFFICIAL LIQUIDATOR REPORT NO.790 OF 2015
WITH
COMPANY PETITION NO.406 OF 2012
COMPANY PETITION NO.140 OF 2013
COMPANY PETITION NO.325 OF 2013
COMPANY PETITION NO.427 OF 2014**

In the matter of Companies Act I of
1956 ;

And

In the matter of M/s.Dujodwala
Paper Chemicals Ltd. (In Liqn.)

1 M/s.Jiangsu Guotai International Group	)
Winson Import and Export Co. Ltd.	)
2 SBI Global Factors Ltd.	)
3 M/s.Polychemi Asia Co. Ltd.	)
4 Licheng Industrial Co. Ltd.	)....Petitioners

Mr.Vinod Sharma OL with Ms.Yogini Chauhan Asst.OL present.

Mr.Zal Andhyarujina with Ms.Shruti Sardesai, Ms.Nikita Vardhan,
Mr.Rashamin Jain i/by Kanga & Co. for Vineet Omprakash
Dujodwala.

Mr.Simil Purohit a/w Gauraj Shah, Mr.Manish Doshi i/by Vimadalal &
Co.for Rajendra Agarwal, Aashish Agarwal & Prashant Agarwal-
independent directors.

Mr.Ismail A.Nasikwala a/w Ashish Gupta for UCO bank.

Adv.Parinit Saratkar i/by SSP Legal for SBI.

**CORAM : K.R.SHRIRAM,J
DATE : 22.1.2016**

P.C.:-

1 This report is filed for various reliefs mentioned therein.

As regards prayer clauses-(a) and (c) are concerned, the counsel

appearing for the State Bank of India and counsel for the UCO bank on instructions, state that they are ready and willing to pay for the valuation charges and also to pay for the security charges to be incurred for the security to be deployed in registered office-cum-factory premises. The counsel for the State Bank of India states that in the total lending between the two banks, their proportion is only 2.5% of the expenses towards valuation and security. The counsel for the UCO bank has no objection.

2 As regards prayer clauses-(b), (e) and (f), the official liquidator states that the ex-director has not been co-operating in handing over physical possession of the factory/office premises and handing over the records of the company including the record of the proceedings mentioned in paragraphs- 31 to 33 in the official liquidator's report. The official liquidator also states that despite the official liquidator having been appointed on 30.10.2014, the ex-director has not filed the statement of affairs. Mr.Vinod Dujodwala ex-director who was in charge of day to day affairs of the company in liquidation is present in court. Shri Andhyarujina counsel on instructions from Mr.Dujodwala undertakes that within one week from today they will hand over all the documents remaining to be handed over, hand over possession of all the rooms in the office/factory premises and also file statement of affairs with the Official Liquidator.

Mr.Andhyarujina on instructions from Dujodwala stated that keys for all the cabins are not traceable. The official liquidator to break open the locks of the doors of all the rooms/premises found locked in the premises to be taken possession of. Should he need police assistance, he may take police assistance. The undertaking is accepted.

3 Among the ex-director of the company mentioned in paragraph-29 of the Official Liquidator's Report, three directors viz. Rajendra Agarwal, Ashish Agarwal and Prashant Agarwal have filed 3 separate affidavits, all affirmed on 12.1.2016 in which they have stated that they resigned as directors and they were in any event, independent directors. Mr.Rajendra Mankumar Agarwal has stated that he was appointed as additional director on 29.10.2010 and by a letter dated 8.12.2011 he resigned from the company. He has relied on copies of the letter addressed to the company to that effect. He has also annexed a copy of the letter dated 22.12.2013 addressed by the company to the Assistant Commissioner of Police, Crime branch where the company has informed the police that Rajendra Agarwal was an independent non-executive director who had nothing to do with the day to day affairs of the company and that he was not aware of any of the details as required by the police. It is also mentioned in the said letter that Rajendra Agarwal was an independent non-

executive director in the year 2008-2009 and 2009-2010.

Mr.Prashant Agarwal has in his affidavit stated that he was appointed as an independent non-executive additional director on 30.10.2009 and he resigned on 15.11.2012. A copy of the resignation letter is also annexed to the affidavit, so also Form No. DIR-11 in which it is mentioned that he resigned with effect from 22.10.2014.

Mr.Simil Purohit Counsel states that though these documents show that he resigned on 22.10.2014, the actual date of his resignation was 15.11.2012. Identical defence is taken by Mr. Ashish Agarwal.

All the three Agarwals' have also taken a common defence that in a Criminal Revision Application bearing No.1170 of 2012, the court of sessions for Gr.Bombay has held that these three gentlemen were non-executive directors and they did not hold any share in the company.

4 The only objection filed in the rejoinder by the official liquidator was that Form No.32 has not been filed after the resignation of these three persons.

5 Form No.32 has to be filed by the company. If the company has failed to file Form No.32, the independent directors

cannot be faulted. They have informed the company about their reluctance to continue as director of the company and have resigned. Considering the documents annexed to the three affidavits, I am satisfied that they resigned from the company and they were independent directors and they were not involved in the day to day affairs of the company. Therefore, to hold them responsible with the two Dujodwala's to file statement of affairs of the company and to hand over documents of the company and to give possession of the assets of the company will not be correct.

In view of the above, none of the directors are required to remain present until further orders.

6 It was also mentioned that there has been a theft in the premises sometime in October-2015. Therefore, theft has to be investigated. Therefore, prayer clause-(d) is granted. It is also mentioned that there was a fire recently which also requires to be investigated. This also to be investigated by the police – as to the cause of fire.

7 In the circumstances and in view of what is stated above, prayer clauses-(a), (b), (c) and (f) of the Official Liquidator's Report are granted. The official liquidator report accordingly stands disposed.

8 In view of the statement made on behalf of the ex-directors as above, prayer clause-(e) is not being granted. The Official Liquidator may apply afresh, should the need arise.

(K.R.SHRIRAM,J)

CERTIFICATE

**Certified to be true and correct copy of the original
signed Judgment/Order.**