

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 09.11.2016

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THE HONOURABLE Mr.JUSTICE RAJIV SHAKDHER

Comp. A.No.1003 of 2016
in C.P.No.60 of 1997

M.R.Krishna Kumari

... Applicant

Vs

The Official Liquidator,
High Court, Madras,
As the Liquidator of
M/s.G.N.S.Nidhi Limited (in liqn.)

... Respondent

Application filed under Order XVI Rule 8 of Original Side Rules, 1956, read with Section 9, 11(b), 19 & 177 of Company Court Rules, 1959, to pass an order to recall the order of the respondent in the notice dated 3.6.2015 and direct the respondent to revive the originals on adjudication the claim No.20/60/1997.

For Applicant : Ms.M.R.Krishna Kumari
Party-in-person
For Respondent : Mr.P.Atchuta Ramaiah
Official Liquidator

ORDER

1. This is an application, moved by one Ms.M.R.Krishna Kumari. Ms.M.R.Krishna Kumari, claims to be the creditor of company in liquidation, i.e., M/s.G.N.S.Nidhi Limited.

2. The instant application has been filed, against the order, dated 03.06.2015, passed by the learned Official Liquidator (OL). By virtue of the impugned order, the learned OL has rejected the claim, made by the applicant in the sum of Rs.63,070/- essentially, on the ground that original documents were not furnished, on or before the last date fixed for this purpose by the learned OL, which was 19.08.2013.

3. Issue notice. Mr.Ramaiah, the learned OL, in advance accepts notice. Mr.Ramaiah says, he does not wish to file a reply.

3.1. It is however, indicated by Mr.Ramaiah, that funds are available in the account of the company in liquidation, and that, if this Court were to condone the delay and grant opportunity to the applicant, to furnish original documents, he will re-examine the claim of the applicant.

4. A perusal of the averments made in the application, shows that, though delay was condoned, even on an earlier occasion, notices sent between 2014 and 2015 to the applicant, were not received by the applicant, as she had changed her address.

4.1. Furthermore, the case of the applicant, is that, the original documents were filed in a suit, preferred by her and that, the said documents could not be recovered, as the Advocate engaged by her, to

prosecute the suit, had expired, in the meanwhile.

4.2. The applicant further avers that, with great difficulty, the relevant original documents, could, thereafter, be retrieved from the clerk of the Advocate. The names of both the Advocate and the clerk is set out in the affidavit accompanying the application.

5. Having regard to the averments made in the affidavit, accompanying the application the delay in approaching the Court is condoned and, the order dated 03.06.2015, passed by the learned OL, is set aside.

5.1. The learned OL is directed to re-examine the claim, subject to the applicant, filing the original documents, within a period of three (3) weeks from the date of receipt of a copy of the order.

6. The application is disposed of in the aforesaid terms.

09.11.2016

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RAJIV SHAKDHER, J.

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