

**Comp.A.No.765 of 2016**  
**In**  
**C.P.No.35 of 2001**

**RAJIV SHAKDHER,J.**

1.This is an application in which the following substantive reliefs are claimed by the Official Liquidator:

“a)To take this report on record.

b)To ratify the action of the Official Liquidator in paying the security expenses from November 2005 from and out of Common Pool Fund Account.

c)To direct the secured creditors to remit a sum of Rs.19,21,573/- towards security expenses from November 2005 to November 2015 in the ratio of 70% IDBI & 30% Federal Bank of India.

d)To direct the Secured creditors to bear the security expenses every month till the date of disposal of assets in the ratio of 70% IDBI and 30% Federal Bank of India.

e)To direct the cost of this application do come out of the funds of the company in liquidation.”

2.Notice in this application was issued on 30<sup>th</sup> August, 2016. On 16<sup>th</sup> September, 2016, fresh notice was issued to the respondents.

Despite service, there was no appearance on 02.11.2016. However, on that date adverse orders were deferred and the matter was directed to be listed today i.e., 28.11.2016. Even today, there has been no appearance on behalf of the respondents.

3. There are two respondents in the captioned application i.e., Industrial Development Bank of India (in short IDBI) and Federal Bank Limited (in short FBI). According to the report dated 4<sup>th</sup> July, 2016 filed along with the captioned application, both IDBI and FBI are required to pay their share of expenses incurred by the Official Liquidator towards advertisement, security charges and other miscellaneous charges such as conveyance, DA and valuation.

4. While, the Official Liquidator, has given a brief synopsis of the history of the expenses incurred and the communications exchanged with the secured creditors for recovery of those expenses, in sum, he seeks, today, recovery of a sum of Rs.27,94,765/- from IDBI and FBI. Furthermore, in respect of recovery of the aforementioned expenses, it is stated, that a meeting was convened on 26.02.2016, with the representatives of the IDBI, FBI, and also, State Bank of India.

4.1.It appears that at the said meeting the State Bank of India indicated that it is not willing to bear the burden of security expenses as it had only a second charge on the immovable property of the Company in liquidation.

4.2.Notably, the Official Liquidator avers that in view of the non-payment of security expenses by IDBI and FBI, the dues of the security agencies have mounted, and that, the concerned security agency has served upon him a letter dated 1<sup>st</sup> June, 2016, requesting him to release monies, so that, unpaid salaries to the concerned employees could be disbursed.

4.3.According to the Official Liquidator, IDBI and FBI are required to bear the burden of the security expenses in 70 : 30 ratio.

4.4.According to the Official Liquidator, out of the sum of Rs.27,94,765/-, a sum of Rs.19,21,573/- is due towards security expenses for the period spanning between November, 2005 and November, 2015. This fact is also reflected in prayer clause (c) of the report filed by the Official Liquidator.

5.Having regard to the above, I would have thought that

representatives of the IDBI and FBI would remain present in Court to give their version, in the case, pertaining facts and figures mentioned in the report of the Official Liquidator qua security expenses. Since, the IDBI and FBI have chosen not to contest the application, despite service of notice, I am inclined to allow the prayers made in the application as there is, for the present, no traverse on record qua the assertions made in the Official Liquidator application.

6. Accordingly, the prayers made by the Official Liquidator in clause (a) to (e) are allowed.

7. IDBI and FBI will pay their share of the dues claimed towards security expenses within ten (10) days of receipt of a copy of the order.

8. The application is disposed of accordingly.

9. Registry will despatch a copy of this order without insistence on process fee to both the IDBI and FBI.

28.11.2016

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