

Comp.A.Nos.865 of 2013,
414, 912, 938, 939, 945 of 2015,
22, 23, 237, 271, 272 and 294 of 2016
in C.P.No.243 of 1997

RAJIV SHAKDHER, J.

Comp.A.No.414 of 2015

1. Pursuant to the order, dated 28.04.2016, passed in Comp.A.No.414 of 2015, the applicant, i.e., International Asset Reconstruction Company Limited, has got the subject property valued.

2. The Valuation Report is sought to be placed before me today.

3. However, learned counsel for the applicant has drawn my attention to the prayer made in the application, which is indicative of the fact that a direction is sought, vis-a-vis, the Official Liquidator is to handover the physical possession of the subject property.

3.1. The learned counsel for the applicant says that in view of the judgment of the Supreme Court in **Pegasus Assets**

Reconstruction Private Limited V. Haryana Concast Limited and Others, MANU/SC/1489/2015, the secured creditor can independently carry out the sale of the subject property. It is submitted that the sale of the subject property need not be conducted under the aegis of the Official Liquidator.

4. In these circumstances, the learned counsel for the applicant seeks to withdraw the captioned application with liberty to move an appropriate application, in the light of the principles set forth in **Pegasus's** case.

5. In view of the same, the Valuation report is returned to the learned counsel for the applicant.

6. The captioned application is dismissed as withdrawn, with liberty, as prayed for.

C.A.No.865 of 2013

7. The substantive prayer made in the application is to direct the Official Liquidator to release an adhoc amount to the applicant

(i.e., International Asset Reconstruction Company Private Limited).

8. Mr.Ramaiah, the learned Official Liquidator, says that the applicant has not preferred any claim before him. It is stated that the last date for preferring claims, before him, was 21.05.2008.

9. Learned counsel for the applicant has drawn my attention to page 21 of the typed set of documents filed in support of the applications bearing No.412 to 414 of 2015, in the instant company petition.

9.1. The document is a communication dated 23.09.2008, addressed to the Official Liquidator, which, in effect, forwards the claim of Standard Chartered Bank (i.e., the assignor of the applicant), in the prescribed format, i.e., Form 66.

9.2. A perusal of the document, however, shows that the said communication was received in the Official Liquidator's office, on 31.10.2008.

10. In any event, what emerges from today's hearing, is that, the claim was filed beyond the last date prescribed by the Official Liquidator, i.e., 21.05.2008.

11. In these circumstances, the application is disposed of, with leave to the applicant to take appropriate steps in the matter.

Comp.A.Nos.938 and 939 of 2014

12. Mr.Ramaiah, learned Official Liquidator, says that in view of the order passed by this Court today, in Comp.A.No.414 of 2015, these applications do not survive.

12.1. Accordingly, the captioned applications are disposed of.

Comp.A.Nos.271 and 272 of 2016

13. After some arguments, Mr.B.Raviraja, learned counsel for the applicant wishes to withdraw these applications with liberty to move the Court as and when he has a firm commitment from the secured and unsecured creditors.

14. The applications are dismissed as withdrawn, with liberty, as prayed for.

C.A.No.294 of 2016

15. Mr.Ramaiah, the learned Official Liquidator, has filed a report, dated 19.07.2016, with this Court today.

15.1. As per the report, the Official Liquidator received 215 claims from the workmen, out of which, the Official Liquidator has admitted 149 claims for a value of Rs.2,13,49,506/-. The learned Official Liquidator has also indicated that he proposes to declare and pay a dividend equivalent to 35 paise in a rupee to the 149 workmen, whose claims have been admitted by him.

15.2. I must, however, note that the Official Liquidator, in paragraph 8 of his affidavit, has adverted to an order dated 28.04.2009, passed in Comp.A.No.604 of 2009, by my predecessor, which *inter alia*, directed that, since, the BIFR, is seized of the matter, the Official Liquidator cannot proceed further, till the disposal of the case by the said authority.

16. Mr.B.Raviraja, learned counsel for the ex-management, informs me that the BIFR proceedings abated on account of the steps taken under the SARFAESI Act by the secured creditors. Against the said order of the BIFR, an appeal was preferred to the AAIFR, which was dismissed.

16.1. Mr.B.Raviraja, says that AAFIR's order was assailed by way of a writ petition, filed in this Court, which was also dismissed, by a learned Single Judge against which, a writ appeal was preferred, being W.A.No.67 of 2016. I am informed that W.A.No.67 of 2016 is pending adjudication.

16.2. Mr.Sivakumar, affirms the aforestated position.

16.3. I am further informed by Mr.B.Raviraja that there is no interim order passed by the Division Bench in W.A.No.67 of 2016.

17. Having regard to the submissions made before me by Mr.B.Ravi Raja, and Mr.Sivakumar, it is clear that there is, apparently, no impediment in the way of the Official Liquidator in

disbursing the amounts collected from realisation of assets.

18. The Official Liquidator, will, however, independently examine what has been stated before me by Mr.B.Raviraja, and, Mr.Sivakumar and, if his enquiries, reveal that there is no order passed by any competent court/authority prohibiting disbursement, he will disburse the amounts, as adverted to, in his report, within a period of ten weeks from the date of receipt of a copy of the order.

18.1. Within the same time-frame, the Official Liquidator will also adjudicate upon the claims of the remaining workers, the Employees' Provident Fund Organisation (EPFO), and the secured creditors.

19. The captioned application is disposed of, with the aforesaid directions.

Comp.A.Nos.22 and 23 of 2001

20. These are applications preferred by the Recovery Officer, EPFO.

21. In these applications, condonation of delay in filing the preferential claims, is sought.

21.1. In Comp.A.No.22 of 2016, according to the applicant, there is a delay of 950 days, while in Comp.A.No.23 of 2016, the delay involved in filing the revised claim is 2627 days.

22. These applications are not opposed by Mr.Achutha Ramaiah, the learned Official Liquidator, on the ground that the claims are still to be adjudicated.

23. Accordingly, the delay is condoned and the applications are disposed of.

Comp.A.Nos.237 of 2016 and 945 of 2015

24. These are applications filed by the Recovery Officer, EPFO, to direct the Official Liquidator to adjudicate the claims made in Form 66 and to direct the Official Liquidator to make early payment.

25. In view of the direction issued by this Court in Comp.A.No.294 of 2016, filed in the instant petition, no further orders are called for in the captioned applications.

26. However, the learned Official Liquidator will adjudicate upon the claims and accordingly, disburse the monies in accordance with the provisions of law, in particular, in accordance with Section 529A of the Companies Act, 1956.

27. Needless to say, the applicant/EPFO will submit all original documents to the Official Liquidator, within a period of ten (10) days, from today.

28. The captioned application is disposed of accordingly.

Comp.A.No.912 of 2015

29. In view of the orders passed in Comp.A.No.414 of 2015, no further orders are called for in the captioned application.

30. Accordingly, the captioned application is disposed of.

C.P.No.243 of 1997

32. The Official Liquidator seeks accommodation on the ground that he will file a fresh status report in the matter.

33. Let the needful be done, at least, three (3) days prior to the next date of hearing.

34. At request, re-notify on 26.10.2016.

19.07.2016

RAJIV SHAKDHER, J.

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