

HONOURABLE SRI JUSTICE S.V. BHATT

COMPANY APPLICATION No.34 of 2016

IN

COMPANY PETITION No.168 OF 2002

ORDER :

Heard Mr.Anil Kumar for applicant and Mr.P.V.Markandeyulu for 1st respondent.

The instant application is filed for directions to respondents to file appropriate application before the Hon'ble Supreme Court in SLP.No.2568 of 2013 for sale of imported machinery lying at the premises of M/s.Sri Vishnupriya Industries Limited company in liquidation at Panyam Village, Nandyal, Kurnool District and facilitate sale of other lands of company in liquidation. The application is filed by the Official Liquidator under Section 459(1) of the Companies Act,1956 read with Rule 9 of the Companies (Court) Rules, 1959.

To appreciate the obstructing circumstances, under which the Official Liquidator seeks the instant prayer, the following averments in the accompany affidavit are referred to.

On 01.12.2003 in Company Petition No.168 of 2002, M/s.Sri Vishnupriya Industries Limited was ordered to be wound up. On 31.03.2015 in Company Application No.371 of 2015, this Court permitted the Official Liquidator to sell the land admeasuring Ac.42-90 cents by excluding the area occupied by the imported equipment under the seizure of Customs and Central Excise Department out of the total extent of Ac.44-40 together with buildings etc. The Department aggrieved by the order dated 03.09.2004 in Company Application No.906 of 2004 filed O.S.A. No.1 of 2005 and on 05.12.2005, the order dated 03.09.2004 was stayed. It is matter of record that O.S.A. No.1 of 2005 was disposed of and the final order is carried, by way of appeal, to the Hon'ble Supreme Court in SLP No.2568 of 2013. The Hon'ble Supreme Court in the said civil appeal directed parties to maintain status quo. Reverting back to the winding

up proceedings/sale of properties, the Official Liquidator states that the efforts of the Official Liquidator to sell the property excluding the property where seized imported machinery is occupying, are continuously failing due to stocking of imported machinery in the midst of other properties.

The affidavit further shows that unless and until appropriate orders are obtained from the Hon'ble Supreme Court by the respondent, the Official Liquidator has difficulty to proceed in the matter and sell the properties. Hence prays for the directions referred to above. The counsel appearing for 1st respondent is substantially in agreement with the prayer of Official Liquidator.

Having regard to these circumstances, this Court is of the view that the 1st respondent is directed to consider and take all steps within four corners of law in SLP No.2568 of 2013 including vacation of status quo dated 03.05.2010 before the Hon'ble Supreme Court and if any orders are passed, the same may be placed before this Court.

The Company Application is ordered.

S.V. BHATT, J

Date: 22.03.2016

Stp