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\* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ **CO.APP. 14/2016**

**IDFC BANK LTD.**

..... Appellant

Represented by: Mr.Jayant Bhushan, Senior  
Advocate instructed by  
Ms.Usha Singh, Mr.Akhilesh  
Kumar Mishra, Ms.Mansi Batra  
and Ms.Aditi Taneja,  
Advocates.

versus

**OFICIAL LIQUIDATOR**

..... Respondent

Represented by: None.

**CORAM:**

**HON'BLE MR. JUSTICE PRADEEP NANDRAJOG**

**HON'BLE MS. JUSTICE PRATIBHA RANI**

**ORDER**

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**30.08.2016**

CM No.31508/2016

Allowed subject to all just exceptions.

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1. Tulip Telecom Ltd. (respondent No.2) is in liquidation. The Official Liquidator attached to the Delhi High Court has obviously to take custody, charge and possession of the movable as well as the immovable assets of respondent No.2. To this extent, there is no cavil.

2. The appellant is a banking company and claims having advanced credit to SADA IT Parks Pvt. Ltd. and by way of security a charge was

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created in favour of the appellant by SADA IT Parks Pvt. Ltd. and Tulip Data Centre Pvt. Ltd. A Deed of Hypothecation was executed by SADA IT Parks Pvt. Ltd. and Tulip Data Centre Pvt. Ltd. on June 27, 2011. A separate Deed of Mortgage concerning Plot No.162(P), 163, 164(P) and 165(P) of EPPIP Industrial Area in Survey No.Parts of 7 and 8, Kundalahalli Village, K.R.Pura, Hobli, Bangalore East was executed by SADA IT Parks Pvt. Ltd.

3. Suffice it to state that case of the appellant would be that whereas the credit was availed of by Tulip Data Centre Pvt. Ltd., the mortgage was by SADA IT Parks Pvt. Ltd.; both being companies are required to be treated as separate entities vis-a-vis Tulip Telecom Ltd.

4. The grievance is to the fact that the learned Company Judge is not deciding CA No.931/2006 in which a simple declaration with respect to the claim of the appellant needs to be adjudicated and the only fact to be verified by the Official Liquidator would be to the correctness or otherwise of the assertions made by the appellant; and as noted above. This exercise is simple. The Official Liquidator has simply to look into the title documents of the property in question and inform the learned Company Judge whether the title vests as asserted by the appellant or not.

5. It is the case of the appellant that the credit availed of by Tulip Data Centre Pvt. Ltd is in default and the appellant is entitled to recover the dues by proceeding in accordance with law against the hypothecated and mortgaged property.

6. It is the case of the appellant that action initiated by the appellant under Section 13(2) of SRFAESI Act, 2002 resulted in proceedings initiated by SADA IT Parks Pvt. Ltd. and Tulip Data Centre Pvt. Ltd. before the Debt

Recovery Tribunal. The proceedings have resulted in a verdict favourable to the appellant.

7. Vide impugned order dated July 21, 2016 the learned Company Judge has called upon the Official Liquidator to ascertain the correctness of the facts asserted by the appellant as also whether there is any commonality of the Directors between the company in liquidation and SADA IT Parks Pvt. Ltd. & Tulip Data Centre Pvt. Ltd. and had deferred consideration in CA No.931/2016, a date which is 30 days hence from today.

8. Since as per the impugned order no decision adverse to the appellant has been taken we are not inclined to issue notice in the appeal but would request to the learned Company Judge to decide CA No.931/2016 on the next date of hearing which is September 29, 2016. The Official Liquidator of respondent No.2 shall ensure not only representation but its counsel being briefed on the facts as well.

9. So observing the appeal is disposed of without there being any order as to costs.

**PRADEEP NANDRAJOG, J.**

**PRATIBHA RANI, J.**

**AUGUST 30, 2016**  
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