

vai

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

OFFICIAL LIQUIDATOR REPORT NO.20 OF 2017
IN
COMPANY PETITION NO.808 OF 2014

Shree Giriraj Metalex Pvt. Ltd.	...Petitioner
V/s.	
M/s.Sanmati Pressings Pvt. Ltd (In liquidation)	...Respondent

Mr.Vinod Sharma, Official Liquidator present.

Ms.Yogini D. Chauhan, Deputy Official Liquidator present.

Mr.Anil Agarwal for the Petitioner.

Mr.Uday Warunjikar for Janseva Sahakari Bank Ltd. - Secured Creditor.

Mr.S.G. Tendulkar for Saraswat Co-operative Bank, Pune Branch.

Mr.Niraj Shah i/b Law Chamber of Siddharth Murarka for the Unsecured Creditor.

CORAM : R.D. DHANUKA, J.
DATE : 24TH FEBRUARY, 2017.

P.C. :-

1. Learned Official Liquidator states that the Ex-Directors have unclaimed the service. The statement is accepted. None appeared for the Ex-Directors when the matter is called out. No affidavit in reply is filed.

2. By this report, the Official Liquidator seeks permission to

take forcible possession of factory premises of the company situated at the address described in prayer clause (a) of the Official Liquidator's Report.

3. The respondent company is ordered to be wound up by an order dated 18th September, 2012 in Company Petition No.135 of 2012. The said order was challenged by the company before the Division Bench. The conditional order passed by the Division Bench is not complied with by the respondent company inspite of the undertaking rendered before the Court. The Official Liquidator came to be appointed while disposing of the company petition.

4. The Official Liquidator issued a notice for taking possession of the factory premises and other assets. It is submitted by the Official Liquidator that on 27th October, 2016, the Ex-Director Mr.Laxman Ganage, who was present, refused to give possession to the Official Liquidator in absence of any specific court order. The representative of the Official Liquidator thereafter went to MIDC Police Station for protection. The Ex-Director however, refused to give possession of the factory premises to the Official Liquidator inspite of police protection.

5. A perusal of the proceedings indicates that the order of winding up passed by this Court has attained finality in view of the default committed by the respondent and thus the Official Liquidator

is entitled to take possession of all the assets of the respondent company and also records. The Ex-Director of the respondent company has obstructed the Official Liquidator to comply with the order passed by this Court and has refused to hand over possession.

6. Learned counsel for the petitioner, Mr. Warunjikar, learned counsel for one of the secured creditor and the learned counsel for the unsecured creditor supports the directions sought by the Official Liquidator and submits that the Official Liquidator be permitted to take forcible possession of the property described in prayer clause (a) of the Official Liquidator's Report.

7. For the reasons recorded aforesaid, I am of the view that the Official Liquidator has made out a case for directions as sought for in prayer clause (a) of the report.

8. I therefore, pass the following order :-

a). The Official Liquidator's Report No.20 of 2017 is made absolute in terms of prayer clause (a).

b). The Official Liquidator to act on the authenticated copy of this order. The concerned police station may provide police protection to the representative of the Official Liquidator while taking possession of the property without undue delay.

c). The concerned police station to act on the authenticated copy of this order.

d). The Official Liquidator shall implement this report within two weeks from today.

(R.D. DHANUKA, J.)