

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

**COMPANY APPLICATION NO.323 OF 2016
IN
COMPANY PETITION NO.888 OF 2003**

Kshama Haresh Mehta .. Applicant

In the matter between

Kshama Haresh Mehta .. Petitioner

Vs.

M/s.I.A.E.C. India Ltd. .. Respondent

Mr.Naushad Engineer a/w Ms.Minal Parab i/by M/s.Bilawala & Co.
for the applicant/petitioner.

Mr.Mohendhar Aithe, Company Prosecutor for the official liquidator
present.

Mr.Prem Das i/by Mr.O.A.Das for Canara Bank.

Mr.Lal Budhrani, representative of M/s.Sevenstar Security Services India
Pvt. Ltd. present.

CORAM : R.D. DHANUKA, J.

DATE : 15th February 2017

P.C. :

. Official Liquidator's Report No.443 of 2016/VIII is not on
board. Taken on board.

2. In prayer clause (c) of the said report, the official liquidator
seeks an order and direction against the DRT Receiver M/s.Sevenstar
Security Services India Pvt. Ltd. to hand over vacant and peaceful
possession of the Industrial Gala No.C-8 described in prayer clause (c)
of the report.

3. Pursuant to the notice issued by this Court, the DRT
Receiver is present in Court and invited my attention to the averments

made in paragraph 2 of the affidavit dated 9th January 2017 filed before this Court in this report. The learned DRT Receiver states that he has been appointed as *custodia legis* of all the assets of the respondent-company by virtue of the order passed by this Court. The High Court Receiver has handed over all the assets of the company in liquidation to the DRT Receiver save and except the assets lying in Hyderabad. The learned DRT Receiver states that he has no objection if the Court directs him to hand over vacant and peaceful possession of the said Industrial Gala No.C-8 situated at Kantilal Maganlal Estate, L.B.S. Marg, Bhandup (W), Mumbai- 400 078 to the official liquidator.

4. Mr.Engineer, learned counsel for the applicant invited my attention to the affidavit dated 15th February 2017 filed by the Canara Bank, Mumbai pursuant to the order passed by this Court on 20th January 2017.

5. A perusal of the affidavit filed by the Canara Bank indicates that in so far as the Industrial Gala No.C-8 is concerned, the said gala is not mortgaged in favour of the bank. There are spare parts, small machineries/stocks lying inside the said Gala No.C-8 which are exclusively hypothecated in favour of the said bank. Statements made by the Canara Bank in the said affidavit are accepted.

6. The DRT Receiver M/s.Sevenstar Security Services India Pvt. Ltd. is accordingly directed to hand over vacant and peaceful possession of the said Gala No.C-8 to the official liquidator within one week from today. The learned DRT Receiver who is present in Court

undertakes to hand over the said Gala No.C-8 to the official liquidator within one week from today. Undertaking is accepted.

7. Mr. Engineer, learned counsel for the applicant invited my attention to the order dated 4 July 2013 in Official Liquidator's Report No.93/2013/VIII in Company Petition No.888 of 2003 whereby this Court has allowed the said report in terms of prayer clauses (a) to (d) and also accepted the valuer's report valuing the movable assets at Rs.70,240/-. The applicant has agreed to pay the said amount of Rs.70,240/- to the official liquidator in respect of those movable assets lying in the said premises. The statement made by the learned counsel for the applicant is accepted. The said amount shall be deposited with office of the official liquidator within one week from today. After obtaining the possession of the said Gala No.C-8 and the movable assets lying therein from the DRT Receiver, the official liquidator shall hand over the same to the applicant within one week from the date of receipt of the payment.

8. In view of the statement made by the learned counsel for the applicant, the prayer clauses (a) and (b) of the Official Liquidator's Report No.443 of 2016/VIII do not survive.

9. In so far as the Company Application No.323 of 2016 is concerned, by this application, the applicant has pressed prayer clause (b) today i.e. an order against the official liquidator to hand over possession of the said Gala No.C-8 described in prayer clause (b) of the said company application.

10. Mr.Engineer, learned counsel for the applicant states that the applicant is entitled to the possession of the said property. He submits that the respondent company was a tenant. He submits that a decree dated 3rd October 2011 is passed in R.A.E. & R. Suit No.708/1701 of 1993 against the company in liquidation which decree has attained finality.

11. The learned company prosecutor as well as the learned counsel for the Canara Bank has no objection if the possession of the said Gala No.C-8 is handed over to the applicant upon receipt of the possession of the said property from the learned DRT Receiver. Statements made by the learned company prosecutor and the learned counsel for the Canara Bank are accepted.

12. Company application is made absolute in terms of prayer clause (b). The possession of the said Gala No.C-8 shall be handed over to the applicant by the official liquidator within one week from the date of receipt of possession from the DRT Receiver. Company application and the Official Liquidator's Report No.443 of 2016/VIII are disposed of in aforesaid terms.

R.D. DHANUKA, J.