

Nalawade

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

COMPANY APPLICATION NO. 922 OF 2015
IN
COMPANY PETITION NO.479 OF 2011

G.C. Chemie Pharmie Ltd.	...Applicant.
vs.	
L & T Finance Ltd.	...Petitioner.
vs.	
In the matter of	
M/s. Mission Vivacare Ltd.	...Respondent.

Mr. Prashant Chande for the Applicant.
Ms. Yogini Chauhan, Dy. Official Liquidator present.

CORAM :A.S.GADKARI, J.
DATE : 9th June, 2017

P.C.

1. This is an application for leave under Section 446(1) of the Companies Act.1956 to continue the legal proceedings being C.C. No.3224/SS/2011 in the case of G.C.Chemie Pharmie Ltd./Complainant vs. M/s. Mission Vivacare Ltd. and ors. pending in the Court of Metropolitan Magistrate, 28th Court, at Esplanade, Mumbai. The applicant has filed the complaint as contemplated under Section 138 of the Negotiable Instruments Act against M/s. Mission Vivacare Ltd. and ors. By an order dated 1.7.2014 this Court had directed that the company namely M/s. Mission Vivacare Ltd. be wound up and the Official Liquidator is appointed as liquidator of the

company. The applicant intends to continue with the prosecution lodged by it in the aforesaid complaint wherein the company namely Mission Vivacare Ltd. has already been arraigned as an accused. In view of the fact that the said company has been directed to be wound up and the Official Liquidator, High Court, Mumbai has been appointed in that behalf, leave is granted to the applicant under Section 446(1) of the Companies Act, 1956 to continue with the legal proceedings in CC No.3224/SS/2011.

2. It is however, made clear that the Official Liquidator, High Court, Mumbai shall be a formal party in the proceedings and the presence of the Official Liquidator is hereby exempted from day to day attendance of the said proceeding. The concerned Metropolitan Magistrate is at liberty to issue summons to the Official Liquidator or its representative in case of necessity for production of record pertaining to the company namely M/s. Mission Vivacare Ltd. The trial court shall if necessary issue summons well in advance, giving at least 7-days period to the Official Liquidator to make available the record of the said company.

3. Application is allowed in the aforesaid terms.

(A.S.GADKARI, J.)