

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
COMPANY APPLICATION NO.920 OF 2015
IN
COMPANY PETITION NO.166 OF 2002
IN
B.I.F.R. CASE NO.32 OF 1998**

Mr. VK. ModiApplicant

Vs.

The Official Liquidator of
M/s. Modistone LimitedRespondent

Mr. Varun Satiya a/w. Ms. Shrivaneer Srivastava i/b. Crawford Bayley and
Co. for applicant.

Mr. Mahendhar Aithe, Company Prosecutor for Official Liquidator present.

**CORAM : K.R.SHRIRAM, J.
DATE : 11th DECEMBER, 2017**

PC.:

1 The application is to direct Official Liquidator to defend proceedings/file appeal in connection with O.A. No.25 of 2002, O.A. No.679 of 2000 and O.A. No.159 of 2001 which counsel for applicant states are pending before DRT II, New Delhi.

2 Mr. Aithe, Company Prosecutor for Official Liquidator states that the company in liquidation had 1823 workmen and they have been paid only 7.5% of their claims as dividend. Mr. Aithe further states that there is no asset of the company in possession of Official Liquidator and Official Liquidator has insufficient funds to defend such litigations. Mr. Aithe states that from the records it appears that claimants in the three DRT proceedings are unsecured creditors and therefore, the direction as

sought, should not be granted because that will result in grave injustice to other secured creditors and particularly, the workmen who have not been paid in entirety.

3 I am in agreement with what Mr. Aithe submitted because if such a direction is passed to Official Liquidator, Official Liquidator will have to utilise whatever little funds he has without paying the workmen but to defend the proceedings filed by unsecured creditors. Mr. Satiya, counsel for applicant states that he has given a personal guarantee to claimants in the DRT proceedings and therefore, Official Liquidator should defend.

4 In my view, my sympathies are more with workmen and secured creditors and not with applicant. In the circumstances, application stands dismissed with no order as to costs.

(K.R. SHRIRAM, J.)