

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
COMPANY APPLICATION (L) NO.310 OF 2017
IN
COMPANY PETITION NO.756 OF 2014**

Prakash Chandra Kapoor and Vijay KumarApplicant

Vs.

Gol Offshore LimitedRespondent

**WITH
OFFICIAL LIQUIDATOR'S REPORT NO.216 OF 2017**

The Official Liquidator, High Court, BombayApplicant

Vs.

Gol Offshore LimitedRespondent

Mr. Anoshak Daver i/b. Mr. Tejas M. Deshpande for applicant/original respondent.

Mr. Prakash Katiyara, Accounts Officer of respondent company present.

Mr. Anil Vishanai for crew members (Intervener).

Mr. Prathamesh Kamat i/b. Ms. Sapana Rachure for Supreme Hydro Pvt. Ltd. (Intervener).

Mr. Nimay Dave a/w. Mr. A. Majumdar, Mr. Ashwini Sinha, Adv. Pabitra Dutta i/b. Bose and Mitra for GARD A/s, Erstwhile P & I Club of Malviya 36 (Intervener).

Mr. Bhalchandra Palav i/b. Cyril Amarchand Mangaldas for Axis Bank and ICICI Bank (Intervener).

Mr. Charles De Souza a/w. Ms. Aneesa Cheema for EXIM Bank (Intervener).

Mr. Abhimanyu Singh i/b. Mr. Harsh Pratap for plaintiff in COMSL/452/2017 (Intervener).

Mr. Nikhil Rajani i/b. M/s. V. Deshpande and Co. for JM Financial Asset Reconstruction Co. Ltd, secured creditors (Intervener).

Adv. Natasha Sailopal for 12 past crew members and 2 vendors – Durva Engineering Works and Om Shanti Marine Services (Intervener).

Mr. Vinod Sharma, Official Liquidator present.

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

CORAM : K.R.SHRIRAM, J.

DATE : 5th OCTOBER, 2017

PC.:

1 Official Liquidator to call for a meeting to decide how to go

ahead with respect to all the vessels owned by respondent in liquidation except relating to vessel Malviya 36 and Malviya 20.

2 Mr. Nimay Dave, counsel appearing for one of the intervenor states that the lenders should be directed to file an affidavit giving the status of the TRA (Trust and Retention Account) post 5th May, 2017, the date when the petition was admitted and the Official Liquidator was appointed as Provisional Liquidator of respondent company.

3 If any amount has been removed from the TRA account by any of the lenders post the admission of the petition, that amount to be redeposited in the account together with interest at 9% p.a. Ofcourse, the lenders and all parties will be heard before the final order is passed. This direction has been passed only to see that nobody takes any money out of the company in liquidation without leave of Official Liquidator and/or of this Court.

4 Mr. Bhalchandra Palav states that his instructions are coming from Axis Bank Limited, who is the lead banker. Axis Bank shall file an affidavit giving the status and movement of funds in the TRA account for the last 12 months and statement of account to be annexed to the affidavit. This affidavit shall be filed by a person not below the rank of Vice President of the Bank.

The affidavit to be filed and copy served by 12 noon on 9th October, 2017.

5 In the order of 21st September, 2017, this Court had directed applicant to file an affidavit on or before 26th September, 2017 disclosing all particulars of the subsidiaries and the revenue generated by the subsidiaries and copy was to be served upon Official Liquidator before the next date, i.e., 27th September, 2017. On 27th September, 2017, the matter was listed and was stood over to 29th September, 2017. After 29th September, 2017 the matter is listed today. Even today applicant has not complied with the directions of this Court and Mr. Daver is seeking extension of two more weeks.

6 I am not inclined to grant any extension whatsoever but purely by way of indulgence time is granted upto 12 noon on 9th October, 2017 to file the affidavit and serve a copy thereof upon Official Liquidator. Applicant shall also provide enough photocopies to Official Liquidator as requested by Official Liquidator.

7 After the above paragraphs were dictated, Mr. Daver, on instructions from one Mr. Prakash Katiyara, Accounts Officer of respondent company (in liquidation), states that the affidavit as directed on 21st September, 2017 has been filed and copy served on Official Liquidator. Official Liquidator states that his office has not received any such affidavit.

8 Therefore, before 5.00 p.m. today, applicant shall go and give to Official Liquidator the proof of service of this affidavit that it has been served already before today. If such proof is not filed or shown, this application will stand dismissed without further reference to this Court.

9 Official Liquidator also raises a grievance that despite repeated request to applicant, the statement of affairs of the company has not been handed over.

10 Mr. Daver, on instructions states that the statement of affairs will be handed over to the office of Official Liquidator latest by 1.00 p.m. on 7th October, 2017.

11 If, by 1.00 p.m. on 7th October, 2017 the statement of affairs is not filed as per the requirement of the rules to the satisfaction of Official Liquidator, this application will stand dismissed without further reference to this Court.

12 If above two directions are complied with strictly and meticulously, this application to be listed for directions on 10th October, 2017.

(K.R. SHRIRAM, J.)