

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

OFFICIAL LIQUIDATOR REPORT NO. 324 OF 2016
IN
COMPANY PETITION NO. 723 OF 2008
WITH
COMPANY PETITION NO. 724 OF 2008

Canvedish Shipping Ltd. .. Petitioner

V/s.
Polaris Marine Management
Pvt. Ltd. (in liquidation) & Ors. .. Respondents

And
Canvedish Shipping Ltd. .. Petitioner

V/s.
Falcon Marine Management
Pvt. Ltd. (in liquidation) & Ors. .. Respondents

Mr. Vinod Sharma, Official Liquidator present
Ms. Yogini D. Chauhan, Deputy Official Liquidator present
Ms. Nafisa Khandeparkar a/w Raksha Thakkar i/b ALMT Legal for Ex-Directors
Mr. Rajshekhar Upadhyay i/b Dave & Girish & Co. for the petitioner

CORAM : R.D. DHANUKA, J.

DATED : 21st APRIL, 2017.

PC.

1. By this report, the Official Liquidator seeks permission to file criminal complaint under Section 454(5) of the Companies Act, 1956 r/w Rule 132 of the Companies (Court) Rules, 1959 against the Ex-Directors of both the companies in liquidation and also seeks further

directions to the Ex-Directors of both the companies in liquidation to handover all the records / books of accounts to the Official Liquidator.

2. By an order dated 17th February, 2017, this Court had directed the Ex-Directors to submit the documents as set out in the list produced by the learned Official Liquidator on or before 17th March, 2017. This Court also directed the Ex-Directors to rectify the defects in the statement of affairs filed by the Ex-Directors before the next date.

3. By an order dated 31st March, 2017, this Court had recorded the statement made by the learned Counsel for the Ex-Directors that his clients have already handed over some of the documents to the official liquidator and if any, further documents or records are called for by the learned Official Liquidator, the same would be provided for. This Court had accepted the said statement. The learned Official Liquidator tendered a copy of the list of documents or records, which were to be handed over by the Ex-Directors to the Official Liquidator. This Court also directed the Ex-Directors to remain present in the Court to co-relate the documents already filed by them with the Official Liquidator with the statement of affairs.

4. Learned Counsel for the Ex-Directors states that on 7th April, 2017 the Ex-Directors have addressed a letter to the Official Liquidator seeking extension of time to furnish remaining documents of the companies to the learned Official Liquidator.

5. The Liquidator vide letter dated 20th April, 2017 has replied to the said letter dated 7th April, 2017, clearly pointing out that it is not possible for the Official Liquidator to segregate the documents unless details as sought by Official Liquidator are provided by the ex-directors. The Official Liquidator has called upon the Ex-Directors to take inspection of the documents and to provide the proper set of documents of the two different companies with numbering to enable the Official Liquidator to verify the same.

6. Learned Counsel appearing for the Ex-Directors states that the concerned Ex-Director who is incharge of the matter, is not in India and would take some time to return to India in view of his personal difficulty. She further submits that her clients are ready and willing to comply with the order passed by this Court and to submit the documents or records in the manner as suggested by the learned Official Liquidator as per the list furnished before this Court on 17th

February, 2017 and in the letter dated 20th April, 2017, on or before 31st May, 2017. Statement is accepted. It is made clear that no further extension would be granted.

7. A perusal of the report indicates that the Ex-Directors are not co-operating with the Official Liquidator and has adopted a very casual approach in the matter. As and by way of last indulgence, an opportunity is granted at the request learned Counsel for the Ex-Directors to comply with the orders passed by this Court on or before 31st May, 2017.

8. It is made clear that if the orders are not complied with by the Ex-Directors, the report shall stand allowed in terms of prayer clause (a) of the OLR No.324 of 2016. This Court will also initiate appropriate action against the ex-directors for non-compliance of the orders of this Court under the provisions of Contempt of Courts Act, 1971 r/w 1035 of the High Court (Original Side) Rules.

9. The Ex-Directors are directed to pay the cost of Rs. 25,000/- to the petitioner and a separate amount of Rs.25,000/- to the Official Liquidator. The amount which is being directed to be paid to the

Official Liquidator shall be credited to the accounts of the company.

The amount shall be paid within two weeks from today.

10. The Official Liquidator Report is disposed on in the above terms.

(R.D. DHANUKA, J.)