

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

**COMPANY APPLICATION (L) NO.740 OF 2016
IN
COMPANY PETITION (L) NO.927 OF 2016**

M/s.Dahabshiil Trading Company .. Applicant

In the matter between

M/s.Dahabshiil Trading Company .. Petitioner

Vs.

M/s.Auro Pharmaceuticals & Fine
Chemicals Pvt. Ltd. .. Respondent

Mr.R.K. Sanghi a/w Mr.V.M. Parkar for the applicant/petitioner.

None for the respondent.

CORAM : R.D. DHANUKA, J.

DATE : 15th February 2017

P.C. :

. Learned counsel appearing for the applicant/petitioner states that the notice of this company application was attempted to be served upon the respondent, however, the same is returned unserved with remark "Unclaimed." He submits that the respondent had not appeared before this Court on 5th December 2016 and 14th December 2016.

2. By this company application, the applicant seeks appointment of the official liquidator as provisional liquidator of the properties with all powers under the Companies Act, 1956 including the power to take charge of the business, all assets, affairs, books of accounts, properties, income, records, documents, papers, vouchers, bills etc. of the company.

3. Learned counsel appearing for the applicant invited my attention to the order passed by this Court on 5th December 2016 and 14th December 2016. He submits that by the said order dated 14th December 2016, this Court has already admitted the company petition and has directed the petitioner to advertise the petition. He submits that the company petition is already advertised. He strongly relies on the prima facie view taken in the said order dated 14th December 2016.

4. Learned counsel for the applicant also invited my attention to the annexures to the petition and would submit that the Bank of Maharashtra has already issued a public notice for sale of movable and immovable assets of the respondent-company which are charged to the said bank and may take over possession of the said properties any moment. He submits that the Directors of the respondent are absconding and are not available in India.

5. A perusal of the record indicates that the respondent did not file affidavit-in-reply before this Court in the company petition. The claim of the applicant against the respondent-company is Rs.74 lakh with further interest thereon.

6. This Court has already made strong observations while admitting this company petition by the said order dated 14th December 2016. I am thus of the view that the applicant has made out a case for an appointment of the official liquidator as provisional liquidator.

7. I therefore pass the following order :-

- (i) Company application is made absolute in terms of prayer clauses (a) and (e) excluding the words “dealing with.”
- (ii) The official liquidator to act on the authenticated copy of this order.
- (iii) The company application is disposed of in aforesaid terms.
- (iv) There shall be no order as to costs.

R.D. DHANUKA, J.