

IN THE HIGH COURT OF JUDICATURE AT MADRAS

(ORIGINAL JURISDICTION)

Wednesday, the 21<sup>st</sup> day of February 2018

THE HON'BLE MR.JUSTICE M.M.SUNDRESH

COMP.APPLN.NO.902 OF 2017

IN

COMP.PETN.NO.115 OF 2004

In the matter of the Companies Act, 1956

**C.P.No.115/2004**

Board For Industrial and  
Financial Reconstruction,  
Jawahar Vyapar Bhawan,  
No.1, Tolstoy Marg,  
New Delhi 110 001  
Rep by its Registrar.

... Petitioner

Vs.

1. THE CHAIRMAN & M.D.,  
VIJAYAKUMAR MILLS LTD.,  
CHINNAKALAYAMPUTHUR POST,  
PALANI-642 615.AND 23 OTHERS.

2. THE SECRETARY,  
HANDICRAFT HANDLOOMS  
TEXTILES AND KHADI DEPARTMENT, GOVT. OF TAMIL NADU,  
FORT ST.GEORGE, CH.9

3. THE CHAIRMAN & M.D.,  
CANARA BANK, (B.I.F.R. ACCOUNTSSEC.),  
CREDIT WING, 112, J.C.ROAD,  
BANGALORE-2.

4. THE CHAIRMAN & M.D.,  
BANK OF INDIA,  
EXPRESS TOWER,  
NARIMAN POINT,  
MUMBAI-400 021.

5. THE CHAIRMAN & M.D., INDIAN OVERSEAS BANK,  
THE INDL.ADVISOR& REHABILITATION DEPT.,  
CENTRALOFFICE, 762, ANNA SALAI,  
MADRAS.2

6. THE CHAIRMAN, I.D.B.I.,  
I.D.B.I. TOWER, CUFFE PARADE,  
MUMBAI.

7. THE CHAIRMAN, I.I.B.I.,  
19, NETAJI SUBHASH ROAD,  
CALCUTTA.

8. THE CHAIRMAN,  
I.C.I.C.I., NO.163, BACKBAY RECLAMATION,  
MUMBAI.

9. THE CHAIRMAN & M.D.,  
SIPCOT, NO.19`A` MARSHALL ROAD,  
EGMORE, P.B.NO.7223,  
MADRAS.

10. THE CHAIRMAN,  
PNB CAPITAL SERVICES LTD.,  
SUDARSHAN BUILDING,  
3TD FLOOR, 14, WHITES ROAD,  
CHENNAI-14.

11. NATIONAL TEXTILE WORKERS UNION  
1848, TRICHY ROAD,  
RAMANATHAPURAM,  
COIMBATORE-45.

12. VIJAYKUMAR MILLS & THREAD  
THOZILALAR MUNNETTRA SANGAM,  
OPP. VK MILLS, KALAYMPUTHUR POST,  
PALANI - 624 615.

13. PALANI NATIONAL TEXTILE WORKERS UNION,  
107, NEW JAIL ROAD,  
MADURAI-625 010.

14. MAVATTA ANNA PANJALAI  
THOILALAR MUNNETHRA SANGAM,  
4D, SCHEME ROAD,  
NEAR BUS STAND DINDIGUL-624 001.

15. THE COIMBATORE DIST. TEXTILE  
WORKERS UNION,  
TYAGI NGR MAHAL 2212,  
TRICHY ROAD,  
COIMBATORE-641 005.

16. DINDIGUL-ANNA DIST. MAVATTA  
PANJALAI THOZILALAR MUNNETHRA SANGAM,  
55A, THIRUVALUVARNAGAR, 7TH CROSS ST.,  
DINDIGUL-624 003

17. DRAVIDA PANJALAI THOZILALAR  
MUNNETHRA SANGAM,  
39, NEW AGRAHARAM,  
PALANI ROAD,  
INDIGUL-624 001.

18. THE DIRECTOR GENERAL,  
ESIC, ESIC BUILDING,  
KOTLA ROAD,  
BEHIND FOREIGN POST OFFICE,  
NEW DELHI.

19. THE CENTRAL PROVIDENT FUND  
COMMISSIONER,  
HUDCO VISHALA,  
14, BHIKAJI CAMA PLACE,  
R.K.PURAM, NEW DELHI-110 066.

20. THE CHAIRMAN & MANAGING DIRECTOR,  
TAMIL NADU STATE ELECTRICITY BOARD,  
CHENNAI.

21. THE PRINCIPAL SECRETARY,  
INDUSTRIES DEPTT., GOVT. OF TAMIL NADU,  
FORT ST. GEORGE,  
CHENNAI.

22. SENIOR VICE PRESIDENT,  
ICICI (OA), CHERAN PLAZA,  
1ST FLOOR, 1619, TRICHY ROAD,  
COIMBATORE-641 018.

23. GUJARAJ LEASE FIANCING LTD.,  
HASMBHAI CHAMBERS,  
OPP. TOWN HALL,  
ELLISHBRIDGE,  
ABMEDABAD.

24. KAUSHIK S. ACHARYA,  
402, ASHRAM AVENUE,  
OPP. BONNY TRAVELLS,  
B/H. KOCHARAB ASHRAMPALDI,  
AHMEDABAD.

...RESPONDENTS

**C.A.No.902/2017**

Janatha Textile Workers Union,  
Registration No. MDU 354,  
Kamaraj Bhavan, Nehru Street,  
Udumalpet -642 126.  
Rep. By it's President

...Applicant/3<sup>rd</sup> Party

Vs.

The Official Liquidator,  
High Court, Madras  
as Liquidator of  
M/s.The Vijaykumar Mills Pvt.Ltd.  
(in Prov.liquidation)

...Respondent/Respondent

The Company Applicant praying this Court:-

a) To direct the respondent herein to declare the dividend to the 129 workers and staffs out of 187 worked in 12<sup>th</sup> respondents Mills in the above C.P.No.115 of 2004 as per list annexed herewith and to disburse the same within a time to be stipulated by this Hon'ble Court.

The Company Application coming on this day before this Court for hearing in the presence of M/s.A.Sivaji, Advocate for the petitioner herein and of Mr.P.Atchutha Ramaiah, Official Liquidator, High Court, Madras, for the Respondent herein and upon reading the Judge's Summons and Report of Official Liquidator filed herein, the Court made the following order:-

*"This application has been filed by the erstwhile workmen and employees of the company in liquidation seeking adjudication of claim for dividend.*

*2.Learned Official Liquidator would submit that only 129 are the workmen and 58 are the employees. Therefore, these 58 employees are not entitled for any benefits. Even for these 129 workers, there is no sufficient evidence produced to show the factum of their employment.*

*3.Learned counsel appearing for the applicant would submit that necessary evidence available would be furnished.*

4.Considering the submissions made, the application stands ordered by directing the applicant to produce necessary evidence to show the factum of employment of 129 workmen within a period of four weeks from the date of receipt of a copy of this order. On receipt of the same, the learned Official Liquidator shall adjudicate upon the claims, within a period of eight weeks thereafter.

4.It appears that four of the properties have not been brought up for auction. If they are brought up for auction, those workers will get more amount due to them. Learned Official Liquidator submits that the auction conducted has failed twice without any offer. Therefore, the learned Official Liquidator is directed to file an application seeking fresh auction, in which case, this Court can consider fixing lesser upset price".

WITNESS, The Hon'ble MS.INDIRA BANERJEE, The Chief Justice of Madras High Court, as aforesaid this the 21<sup>st</sup> day of February 2018.

Sd/-  
JOINT REGISTRAR(O.S)

//Certified to be true copy//  
Dated at Madras this the        day of        2018.

COURT OFFICER(O.S.)

From 25th Day of September 2008 the Registry is issuing certified copies of the Orders/Judgments/Decrees in this format.

TE-23.05.2018

COMP.APPLN.NO.902 OF 2017  
IN  
COMP.PETN.NO.115 OF 2004

ORDER DATED:21/02/2018

THE HON'BLE MR.JUSTICE  
M.M.SUNDRESH

FOR APPROVAL ON:29/05/2018

APPROVED ON:29/05/2018

To:

The Official Liquidator,  
High Court, Madras.