

IN THE HIGH COURT OF JUDICATURE AT MADRAS

(ORIGINAL JURISDICTION)

Wednesday, the 15th day of November 2017

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

COMP.APPLN.NO.671 OF 2017

IN

COMP.PETN.NO.73 OF 2000

In the matter of Companies Act, 1956
and

In the matter of Sterling Tree Magnum India Ltd.,

C.P.NO.73/2000:

The Lintas India Ltd.,
Shakthi Towers III,
766, Anna Salai,
Represented by Branch Manager
and Power Agent Sri Ashok Kumar .. Petitioner
Vs.

M/s.Sterling Tree Magnum India Ltd.,
No.5, Murrays Gate Road,
Chennai-600 018
Rep.by its Chairman .. Respondent

C.A.No.671/2017:

G.A.M.Dhandapani,
S/o.G.A.Muthu Erulappa Chettiar,
221-E, Cumbun Road, Theni. ..Applicant/Third party
-Vs-

M/s.Sterling Tree Magnum India Limited,
Represented by its Official Liquidator,
Office of the Official Liquidator,
II Floor, Corporate Bhavan,
No.29, Rajaji Salai,
Chennai-600 001 ..Respondent/Respondent

The Company Applicant praying this Court to grant leave to the applicant to prosecute the arbitral proceedings in claim petition No.1 of 2011 before the Arbitral Tribunal comprising Mr.Justice N.V.Balasubramanian (Retd.)at Chennai against the respondent.

The Company Application coming on this day before this Court for hearing in the presence of M/S.S.Ramesh, Advocate for the applicant herein, and of Mr.P.Atchutha Ramaiah, Official Liquidator, High Court, Madras, the respondent herein, and the Report of the Official Liquidator filed herein and upon reading the Judge's Summons and affidavit of G.A.M.Dhandapani filed herein, and report of the Official Liquidator, High Court, Madras, and the order herein dated 11/02/2014 made in C.P.No.73 of 2000, and this court having observed that the agreement itself has been made during the pendency of the proceedings in C.P.No.73 of 2000. It was entered into after a period of six years by the erstwhile management. At least they were aware of it, if not the applicant. Looking from any perspective and especially by taking into consideration the amount paid by way of advance, the relief sought for cannot be granted. The only remedy open to the applicant is to make a claim before the learned Official Liquidator. Even assuming the applicant gets the award in his favour, it is also subject to further orders to be passed by this Court. It merely changes the status of the applicant and nothing else. Such an exercise may be in the realm of being academic. Further, from the year 2014, the proceedings were going on in the absence of the Official Liquidator, though the applicant claims that they were not informed.

It is ordered as follows:

1. That the Company Application No.671 of 2017 do stand dismissed.
2. That G.A.M.Dhandapani, the applicant herein shall be at liberty to make a claim before the learned Official Liquidator.
3. That the learned Official Liquidator, High Court, Madras, herein shall be at liberty to file appropriate application before this Court in so far as the possession aspect is concerned.

WITNESS, The Hon'ble MS.INDIRA BANERJEE, The Chief Justice of Madras High Court, aforesaid this the 15th day of November 2017.

Sd/-

JOINT REGISTRAR(O.S)

//CERTIFIED TO BE A TRUE COPY//

DATED THIS THE DAY OF 2018.

COURT OFFICER.

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

SU/04/05/2018

COMP.APPLN.NO.671 OF 2017
IN
COMP.PETN.NO.73 OF 2000

ORDER DATED:15.11.2017
(decree order)

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

FOR APPROVAL ON:28/05/2018

APPROVED ON:28/05/2018

Copy to:

The Official Liquidator,
High Court, Madras.