

THE HON'BLE SRI JUSTICE CHALLA KODANDA RAM

COMPANY APPLICATION No. 507 OF 2017

ORDER:

This Application has been taken out by the Official Liquidator under Sections 457(1) (e) and 460(4) of the Companies Act, 1956 read with Rules 9, 275 and 276 of the Companies (Court) Rules, 1959 seeking to:

- i. permit the Official Liquidator to pay an amount of Rs.5,21,448/- to the Employees' Provident Fund Organization, Nizamabad after adjusting the already paid amount of Rs.47,520/- against the admitted debt of Rs.5,68,968/- which has been treated as priority payment based on the order dated 08.11.2011 passed by the Hon'ble Supreme Court in Civil Appeals No. 9630, 9631, 9632 and 9633 of 2011 and based on the documents furnished by the said EPFO;
- ii. since there is only one payment to be made and be permitted to be paid from the P.D. Account directly;
- iii. dispense with the publication of notice of dividend in newspapers as the same is in respect of only one creditor;
- iv. permit the Official Liquidator to send notice of dividend in Form No. 138;
- v. permit the Official Liquidator to fix three months' time to make payment of the declared dividend;
- vi. permit the Official Liquidator to take all necessary actions and steps which are incidental to declaration and payment of dividend and to effectively implement the orders of this Hon'ble Court in that regard; and
- vii. order that the costs of this application do come out of the Estate of the Company (in liqn.).

The affidavit filed in support of the Judges Summons discloses that by an order dated 28.11.2005 made in R.C.C.No. 14 of 1999, this Court directed winding up of M/s Sri Laxmi Saraswathi Papers Limited (company under liquidation) and appointed the Official Liquidator as its liquidator. Pursuant thereto, the Official Liquidator has taken possession of the properties of the company situated at Neela Village, Nizamabad and sold them off. The amount realized therefrom was distributed

among the secured creditors and workmen. It is stated that the claim of the Provident Fund Organization has been adjudicated in the subject company by the Official Liquidator and admitted the same. Rs. 5,64,048/- is available to the credit of the company as on date. In view of the judgment of the Apex Court in Civil Appeals No. 9630 to 9633 of 2011, dated 08.11.2011, PF Department has got right over and above the secured creditors and they have to be paid in full before discharging the other liabilities. Hence, this Application.

Heard Sri M. Anil Kumar, learned counsel representing the Official Liquidator.

For the reasons stated in the accompanying affidavit, this Application is allowed in terms of the relief sought for therein.

06th July 2017

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CHALLA KODANDA RAM, J

