

THE HON'BLE SRI JUSTICE M.S.RAMACHANDRA RAO

Company Application No.1929 of 2015 in C.P.No.42 of 2010

ORDER:

This application is filed by the applicant for release of the property bearing Municipal No.4-3-352, Ground Floor, Bank Street, Kothi, Hyderabad, admeasuring 300 sq. ft. from the liquidation proceedings in C.P.No.42 of 2010.

2. By order dt.16-09-2014 in C.P.No.42 of 2010, this Court was pleased to direct winding up of M/s.Sanghi Polyesters Limited and the Official Liquidator attached to this Court was appointed as Official Liquidator. The registered office of the said company was located in the above premises as per the records of the Registrar of Companies, Hyderabad. The Official Liquidator was deputed to take possession of the registered office premises.

3. On 21-01-2015, the officials of the Official Liquidator proceeded to the above address. One Parek, claiming to be officer of M/s.Sanghi Group of Companies, in which the company in liquidation is one, allegedly informed those officials about location of registered office of the company in the above premises. Therefore, officials of the Official Liquidator closed and locked the said premises in the presence of Chief Manager, representative of Bank of Baroda.

4. The applicant states that the premises in question belongs to him, which he has obtained under the compromise decree

dt.25-11-1971 in O.S.No.30 of 1971 before the Chief Judge, City Civil Court, Hyderabad; that a deed of confirmation of the partition was also executed on 20-01-1980 confirming the past partition between himself and his family members wherein the said property was allotted to his share; the property in question is not property of the company in liquidation though his tenant M/s.Roop Kamal allowed the property to be used as registered office of the Company in liquidation. Applicant states that the tenant has not opened the shop in the said premises, and was also not paying rents and he wanted to initiate eviction proceedings against tenant, and when he went to the premises on 18-03-2015, he found a notice pasted to the shutter of the shop by the Official Liquidator and came to know about the action of the Official Liquidator in taking possession by locking the said premises. He therefore, seeks direction from this Court to Official Liquidator to release the property from the liquidation proceedings in the Company Petition.

5. Copy of the order dt.25-11-1971 of the Civil Court, copy of lease deed dt.08-08-1982 and copy of deed of confirmation of partition dt.20-01-1980 have been produced by the applicant in support of his contention that the property in question belongs to him and is not the property of the company in liquidation.

6. The Official Liquidator in his report merely stated that one Parek showed the premises as registered office of the Company and then they closed and locked it. No material is filed by the Official

Liquidator to show the property in question belongs to the Company in liquidation. It is also not the case of the Official Liquidator that Mr.Parek had told the officials of the Official Liquidator that the property in question belongs to the Company in liquidation.

7. Admittedly, no statement of affairs has been filed by the Ex Directors of the Company in liquidation stating that the premises in question is the property of the Company in liquidation. This Court had directed the Official Liquidator to issue notice to M/s.Roop Kamal, the tenant of the said premises, who had allowed the premises to be used as registered office of the Company in liquidation. Though such notice is served, there is no response from M/s.Roop Kamal.

8. Since admittedly there is no material to prove that the property in question belongs to the company in liquidation and on the contrary, there is ample material to show that the property in question is owned by the applicant, this application is allowed and the said property is hereby released from liquidation proceedings in the Company Petition. No costs.

JUSTICE M.S.RAMACHANDRA RAO

Date: 12-10-2017
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