

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

**COMPANY APPLICATION NO.41 of 2018
in
COMPANY PETITION NO.172 OF 2014**

Bunge S.A. & anr Applicant
vs
Varun Industries Ltd (In Liqn) .. Respondent

Ms.Jyotika Jain I.b Bose & Mitra
& Co for Applicant
Mr.Mahendra Aithe Company Prosecutor
for Official Liquidator present

***Coram : K.R.SHRIRAM, J
Date : 2ND MAY, 2018***

P.C

This application is for leave under section 446 of the Companies Act, 1956. The Assistant Official Liquidator has filed an affidavit dated 2.5.2018 according his no objection in view of the statement made by the applicant in para 10 of the affidavit in support. Para 8 and 9 of the affidavit of Mr.Pankaj Srivastava affirmed on 2.5.2018 reads as under

8. I say and submit that the instant Company Application seeks for leave fo this Hon'ble High Court under

section 446 for instituting suit against Indian Bank and Company (in liquidation). Further, at para (1) of Company Application, Applicant (s) has stated that applicant has no claim against Company (in liquidation).For ready reference para (1) of the Company Application is reproduced as under :

“10. I say that in the circumstances aforesaid, the Applicants are left with no alternative but to initiate proceedings in the High court of Bombay for the recovery of their rightful dues against Indian Bank. Varun is required to be impleaded for the proper adjudication of this dispute even though there is no claim per se against Varun. I say that Varun is a proper proforma party and therefore it is required that Varun be joined as a party to the proceedings, as Varun was involved in the said sales contract. I say that for the recovery of their rightful dues against Indian Bank, it is just and necessary in the interest of justice that Varun be joined as a party to the proceedings.”

9. In view of the statement of Applicant that they have no claim against Company (in liquidation) the office of the Official Liquidator has 'no objection,' if leave is granted by this Hon'ble Court under section 446 of the Companies Act, 1956. Since there is no fund lying to the credit of company (in liquidation) the presence of the Official Liquidator/Advocate of Official Liquidator may kindly be dispensed with or alternatively, the Applicant may kindly be directed to bear legal expenses for the appointment of advocate on behalf of Official Liquidator to represent the Company (in liquidation).

2. In view of above, application allowed to the extent that the plaintiff may implead the official liquidator of Varun Industries Ltd as proforma defendant with no relief sought against in the suit proposed to be commenced by the Applicant.

Application disposed of accordingly.

(K.R.SHRIRAM, J)