

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

**COMPANY APPLICATION NO. 157 OF 2017
IN
COMPANY PETITION NO. 830 OF 2014**

Supreme Build Estate Pvt. Ltd. .. Applicant

In the matter between :

M/s. Megasoftware Limited .. Petitioner

Vs.

M/s. Loop Mobile (India) Limited

And

The Official Liquidator

M/s. Loop Mobile (India) Limited .. Respondents

WITH

OFFICIAL LIQUIDATOR'S REPORT NO. 447 OF 2016

The Official Liquidator

of High Court Bombay

M/s. Loop Mobile (India) Ltd. .. The Official Liquidator

WITH

COMPANY APPLICATION NO. 169 OF 2017

IN

COMPANY PETITION NO. 830 OF 2014

Kirusa Software Pvt. Ltd. .. Applicant

In the matter between :

M/s. Megasoftware Limited .. Petitioner

Vs.

M/s. Loop Mobile (India) Limited .. Respondent

Mr. Anirudh Hariyani a/w. M. R.S. Bidkar and Ms. Rajashree Ram i/b Hariyani and Co. for applicant in CA/157/2017.

Mr. Sumit Raghani i/b Agrud Partners for applicant in CA/169/2017.

Mr. Prakash Shinde i/b MDP and Partners for respondent No.2 in CA/157/2017 and for respondent No.5 in CA/169/2017.

Mr.Pola Raghunath, Deputy Official Liquidator present.

CORAM : K.R.SHRIRAM, J.

DATE : 6TH FEBRUARY 2018

P.C.

COMPANY APPLICATION NO. 157 OF 2017

1 Mr. Shinde appearing for IDBI Bank Limited, viz., respondent no.2, states that within 30 days from today, respondent no.2, in co-ordination with the office of the official liquidator and under advise to petitioner, shall remove all the movables in the premises which is the subject matter of this application. This statement of Mr. Shinde is accepted as an undertaking of IDBI Bank Limited to the Court.

2 It is made clear that no extension will be granted and no application for extension will be entertained particularly in view of the fact that this application itself has been pending for more than a year and it was the duty of respondent no.2 to have made alternative arrangements. Respondent no.2 cannot use applicant's premises for free to store properties which they claim to have a right over.

3 In view of this undertaking given by respondent no.2, application stands disposed.

So far as prayer clauses (b) and (c) are concerned, applicant is at

liberty to file its proof of debt with the official liquidator who shall consider the same in accordance with law.

4 On expiry of 30 days from today, applicant is at liberty take possession of the premises from the official liquidator.

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5 This application is filed for the following reliefs :

(a) *that this Hon'ble Court be pleased to permit the Applicant to inspect the premises of the Respondent Company, located at 127, Manmala Tank Road, Taikalwadi, Mahim West, Mumbai – 400016 in order to determine and locate the additional hardware belonging and provided by the Applicant to the Respondent Company which are more particularly in EXHIBIT 'F' to the Affidavit in support of the Company Application;*

(b) *that this Hon'ble Court be pleased to order and direct release of the additional hardware provided by the Applicant to the Respondent which is more particularly mentioned in EXHIBIT 'F' to the Affidavit in support of the Company Application.*

6 It is the case of applicant that some of the movables which are at 127, Manmala Tank Road, Taikalwadi, Mahim West, Mumbai – 400016 (the said premises), sale of which has been notified by respondent no.5 in certain newspapers on 9th January 2018, actually belongs to applicant and cannot be sold but instead should be handed over by respondent no.5 to applicant.

7 This application along with another application and official liquidator's report was taken up for hearing on 20th January 2017 when respondent no.5 was also present. Paragraphs 3, 4, 5 and 6 of the said order read as under :-

3. *Insofar as Company Application (L) No.166 of 2016 is concerned, the applicant seeks permission to inspect of the premises of the respondent company situated at Mahim in order to determine and locate the additional hardware allegedly belonging and provided by the applicant to the respondent company. The applicant also seeks an order and directions for release of the additional hardware alleged to have been provided by the applicant to the respondent described in Ex.F to the affidavit in support of the company application.*

4. *Learned counsel for the IDBI Bank has no objection if the applicant is granted permission to inspect the premises of the respondent company, the possession whereof would be handed over by the Official Liquidator to the applicant within two weeks from today. A copy of the company application shall be served upon by the applicant upon the IDBI Ltd. and also upon the Office of the Government Pleader within two days from today.*

5. *The inspection shall be granted to the applicant within one week from the date of the IDBI Ltd. obtaining the possession of the said Mahim property from the Official Liquidator.*

6. *Insofar as prayer clause (b) in the Company Application (L) No.166 of 2016 is concerned, the same can be considered after inspection of the movables lying in Mahim property is taken by the applicant. It is made clear that insofar as the order passed by this court restraining the IDBI Bank Ltd. from selling the movables situated at Mahim property is concerned, the said order can be modified after inspection of the property is taken by the applicants in Company Application (L) No.166 of 2016 and while considering prayer clause (b) of the said application by this court.”*

4 Subsequent thereto, a joint inspection of the registered office of the

company was taken on 9th February 2017 at which time the representative of applicant and one Mr.Srinivasa Rao, General Manager of IDBI Bank -respondent no.5 were also present. During inspection, the following items were identified :

EXHIBIT 'F'

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LIST OF ADDITIONAL HARDWARE SUPPLIED BY THE APPLICANT

S.No.	Server Type	Serial Number	Company Name of Server	Server Model	Remarks
1	Application Server 1	S11555623109065	Super Micro	Super micro	Invoices and other relevant documents enclosed
2	Application Server 2		HP	HP	
3	HVP Server 1	SGH024XT8C	HP	HP	Invoices and other relevant documents enclosed
4	HVP Server 2		HP	HP	Invoices and other relevant documents enclosed
5	HVP Server 3	SGH252JKCC	HP	HP	Invoices and other relevant documents enclosed
6	OCMP Server		HP	HP	

Sr.No.	Server Type	Company Name of Server	Remarks
1	HP Procurve Switch	HP	Relevant invoices enclosed as part of the Server invoices. Other relevant documents also enclosed.
2	2 SEP panels	NMS	
3	6 CGI Cables	NMS	
4	External HDD	WD	

Sr.No.	Cards	Card Serial No.	Remarks
1	2 CG & 1 Tx card	Its a part of server	Relevant invoices enclosed as part of the Server invoices. Other relevant documents also enclosed.
2	2 CG & 1 Tx card	Its a part of server	
3	2 CG & 1 Tx card	It's a part of server	

5 Except the emphasized items (Sr.Nos.1 and 5 in the first box in Para 4) , rest were found. After inspection, applicant has filed an affidavit of one Jasmeet Singh affirmed on 9th June 2017. Copy of this affidavit has also been provided to respondent no.5. No affidavit in reply opposing this additional affidavit has been filed. It should also be noted that respondent no.5 has not filed any affidavit opposing this application.

6 In the circumstances, prayer clause (a) having been granted earlier pursuant to order dated 20th January 2017, prayer clause (b) is also hereby granted and it reads as under :-

(b) that this Hon'ble Court be pleased to order and direct release of the additional hardware provided by the Applicant to the Respondent which is more particularly mentioned in EXHIBIT 'F' to the Affidavit in support of the Company Application.

7 It is clarified that except the emphasized item in Exh.'F' (Page 125) to the application, respondent no.5-IDBI Bank Limited to hand over the same to applicant within four weeks from today.

8 Company application disposed.

(K.R. SHRIRAM, J.)