

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
COMPANY APPLICATION NO. 197 OF 2018
IN
COMPANY PETITION NO. 657 OF 2016**

Anoop Sharma & Ors.

.. Applicants

In the matter between :-

Kishinchand R. Ludhani

.. Petitioner

Vs.

Official Liquidator, High Court,
Bombay as liquidator of Kamla Landmarc
Construction Pvt. Ltd.
(in Liquidation)

.. Respondent

Mr.Karl Tamboly a/w. Ms.Janvi Dutt i/b Vigil Juris for applicants.

Mr.Ashwin Poojari i/b Vimadalal and Co. for original petitioner.

Mr.Mahendhar Aithe, company prosecutor for official liquidator present.

CORAM : K.R.SHRIRAM, J.

DATE : 6TH JUNE 2018

P.C.

1 This application is filed under Section 446 of the Companies Act, 1956 after the Suit bearing No.257 of 2018 was filed by plaintiff in this Court. Applicants state that the applicants were not aware that the petition for winding up of the company has been admitted and provisional liquidator has been appointed when the suit was filed. In view thereof, the application is taken out.

2 The Division Bench of this Court in ***Vysya Bank Ltd. Vs. Official Liquidator, Shreeniwas Cotton Mills Ltd. (in liquidation)***,¹ has held that even post filing of the suit, leave can be granted under Section 446 of the Companies Act, 1956.

3 In the circumstances, application is allowed in terms of prayer clauses (a) which read as under :-

“(a) that Leave be granted to the Applicant under section 446(i) of the Companies Act, 1956 to implead the Official Liquidator in the Representative Suit (Suit No.257 of 2018) filed inter alia for recovery of a sum of Rs.15,81,43,720/- along with interest thereon @ 24% p.a. from the date of payment till realization against the Official Liquidator, High Court, Bombay as the Official Liquidator of M/s. Kamla Landmarc Construction Pvt. Ltd. (In liquidation).”

4 Application accordingly disposed.

(K.R. SHRIRAM, J.)

1 1995 (Company Cases) Volume 84, 493