

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

**COMPANY APPLICATION NO.359 OF 2018
IN
COMPANY PETITION NO.1066 OF 2015**

Farouk Sodagar Darvesh & Co. Pvt. Ltd.)....Applicant

IN THE MATTER BETWEEN :

Action Barter Private Limited)....Petitioner
V/s.

Shree Ram Urban Infrastructure Limited)....Respondent

WITH

**COMPANY APPLICATION NO.420 OF 2018
IN
OFFICIAL LIQUIDATOR REPORT NO.16 OF 2018**

WITH

**COMPANY APPLICATION (L) NO.473 OF 2018
COMPANY APPLICATION (L) NO.485 OF 2018
COMPANY APPLICATION (L) NO.493 OF 2018
COMPANY APPLICATION (L) NO.496 OF 2018
COMPANY APPLICATION (L) NO.497 OF 2018
COMPANY APPLICATION (L) NO.503 OF 2018
COMPANY APPLICATION (L) NO.505 OF 2018
COMPANY APPLICATION (L) NO.558 OF 2018
COMPANY APPLICATION (L) NO.559 OF 2018**

IN

COMPANY PETITION NO.1066 OF 2015

Mr.J.S.Shukla I/by Vaibhav Mehta and Associates for applicant in CA No.359/2018 and for plaintiff in COMSS 462/2017.

Mr.Chirag Kamdar a/w Mr.Denzil Arambhan, Ms.Nanki Grewal, Ms.Pradhi Saraf and Ms.Henna Goradia I/by Wadia Ghandy and Co. for applicant in CA 420/2018.

Mr.Mohit Arora a/w Mr.S.A.K.Najam-es-sani I/by Maneksha and Sethna for applicant in CAL 473/2018, 485/2018, 493/2018, 496/2018, 497/2018, 503/2018, 505/2018, 558/2018 and CAL

559/2018.

Ms.Gauri Memon I/by Nankani Associates for petitioner in CP 166/2015.

Mr.D.D.Madon, Senior Advocate a/w Mr.Cyrus Ardeshi, Mr.Darshit Jain, Mr.Lalit Katariya, Ms.Benedicta Lobo I/by Katariya & Associates for respondent-company.

Mr.Darshit Jain a/w Mr.Lalit Katariya and Ms.Benedicta Lobo in Katariya and Associates for Ex-directors.

CORAM : K.R.SHRIRAM,J

DATE : 17.10.2018

P.C.:-

COMPANY APPLICATION NO.359 OF 2018

1. This application is for leave to continue to prosecute Commercial Suit No.462 of 2017 pending before this court in its Ordinary Original Civil Jurisdiction.

2. Mr.Kamat for the Provisional Liquidator states that since the suit filed is a summary suit, which means the applicant is confident of getting a summary decree, the applicant may lodge affidavit of proof of debt with the Provisional Liquidator who will consider the same and dispose it in accordance with law.

3. In my view, submissions made by Mr.Kamat makes sense. That will also save litigation cost of the applicant as well as Provisional Liquidator.

4. In the circumstances, the applicant is directed to lodge its affidavit of proof of debt with the Official Liquidator who shall

consider the same and dispose it in accordance with Law.

5. Mr.Shukla appearing for the applicant seeks leave to withdraw the Commercial Suit No.462 of 2017 with liberty to file a fresh suit should the need arise.

6. Suit dismissed as withdrawn with liberty as prayed for. Refund of court fees in accordance with Rules. Consequently, summons for Judgment No.95 of 2017 also stands disposed.

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1. These applications are to grant leave to the applicants under Section 446 of the Companies Act 1956 to file suit seeking specific performance of the agreement dated 10.11.2008 and supplemental agreement dated 25.2.2011.

2. Mr.Kamat for the Provisional Liquidator states that suit for

specific performance against the Liquidator is not maintainable and therefore, this court should not grant leave to the applicants. I agree with Mr.Kamat.

3. At this stage, Mr.Arora requests these applications be stood over so that he can look up the law and make submissions.

Stand over to 24.10.2018.

4. Company Application No.420 of 2018 be placed for hearing on 21.11.2018.

(K.R.SHRIRAM,J)