

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

**COMPANY APPLICATION NO. 314 OF 2016  
IN  
COMPANY PETITION NO. 1015 OF 2008**

Captain P. C. Acharya .. Applicant

*In the matter between :*

Harinder Singh Bisht .. Petitioner

Vs.

The Official Liquidator,  
High Court, Bombay being the  
Provisional Liquidator of  
M/s. Crown Maritime Co. (I) Ltd. .. Respondent

Ms.Ratna F. Jaiswal for applicant.

Mr.Shanay Shah i/b Sarah Kapadia for intervener.

Mr.Prathamesh Kamat for official liquidator.

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

**CORAM : K.R.SHRIRAM, J.  
DATE : 12<sup>TH</sup> FEBRUARY 2018**

**P.C.**

1 This application is filed by applicant for the following reliefs :-

(a) *The Official Liquidator be instructed to pay the Applicant a sum of Rs. 37,84,766/- upto 18<sup>th</sup> march 2010, as adjudicated and admitted in class of preferential creditor by the Official Liquidator.*

(b) *The Official Liquidator be instructed to pay the Applicant a sum of Rs.1,08,00,000/- towards wages from 19 March 2010 till*

*03 Jan 2014 excluding the period as stated above as per calculation sheet attached as Annexure A8 to the affidavit-in-support of the instant application.*

*(c) For such further and other reliefs as the nature and the circumstances of the case may require.*

2 Applicant is challenging the admission of proof dated 22<sup>nd</sup> January 2016 in which the official liquidator has rejected a sum of Rs. 2,16,70,656/- out of a claim of Rs. 2,57,55,331/-. The official liquidator has allowed only a sum of Rs.37,84,766/-.

3 The official liquidator has filed Official Liquidator's Report No.424 of 2016 seeking leave of the Court to set aside the notice of admission/rejection of proof dated 22<sup>nd</sup> January 2016 issued to applicant Captain P.C.Acharya and to permit the official liquidator to re-adjudicate the claim of Captain P.C.Acharya de-novo.

4 Applicant has approached this Court challenging the order of adjudication on the basis that the part of the order rejecting the claim made by applicant is incorrect. According to applicant, pursuant to a letter dated 6<sup>th</sup> July 2011, applicant continued onboard the vessel m.v.CROWN I upto 3<sup>rd</sup> January 2014 when the possession was handed over to the auction purchaser. According to applicant, applicant should be paid a sum of

Rs.9,000/- per day at which rate the Liquidator has admitted applicant's claim for the period 11<sup>th</sup> June 2009 till 18<sup>th</sup> March 2010.

5 In the OLR, it is stated that there is an order dated 29<sup>th</sup> April 2014 passed by this Court in Company Application No.22 of 2014 in which the Court has *prima-facie* observed that the figure of 'Rs.9,000/- per day' has been manipulated and overwritten instead of 'Rs.9,000/- per month'. The Court has observed that it would make a huge difference and did not accept with the rate agreed was 'Rs.9,000/- per day'. It was a *prima-facie* observation. The liquidator in his OLR has stated that inadvertently and due to oversight the order of 29<sup>th</sup> April 2014 and other correspondences were overlooked. Therefore, the official liquidator has filed the OLR for the reliefs as mentioned earlier. Ms. Jaiswal for applicant states that there are many other documents which have also been overlooked by the official liquidator and he has not considered those documents before rejecting, though those documents were already filed with the official Liquidator, he had overlooked the documents.

6 In my view, it would be in the interest of applicant as well as the official liquidator if the order dated 22<sup>nd</sup> January 2016 is set aside and the official liquidator is directed to reconsider all the documents filed by

applicant along with all the orders passed by this Court before passing the final order of adjudication. If official liquidator needs any assistance of the Court, particularly in view of the *prima-facie* observations of this Court in the order dated 22<sup>nd</sup> January 2016 on the issue of overwriting etc., like for taking the opinion of an Handwriting Expert or some other expert, the liquidator is at liberty to apply.

7 In the circumstances, the order dated 22<sup>nd</sup> January 2016 is set aside and the liquidator is directed to reconsider de novo proof of claim filed by applicant and file report accordingly.

8 The company application stands disposed.

9 The OLR also stands disposed accordingly.

**(K.R. SHRIRAM, J.)**