

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

**COMPANY APPLICATION NO.515 OF 2016
IN
COMPANY PETITION NO.76 OF 1991**

M/s.Laxmichand Bhagaji)
Depositors Management Committee)....Applicant
V/s.

M/s.Laxmichand Bhagaji Ltd. & Anr.)....Respondents

Mr.Mehul A.Rathod for the applicant.
Mr.Rakesh Reddy-Amicus Curiae present.

**CORAM : K.R.SHRIRAM,J
DATE : 15.1.2018**

P.C.:-

1 Heard counsel for the applicant and also amicus. Primarily this application had to be taken out because the order appointing applicant committee had directed the committee to submit quarterly report. The first two chairmans appointed died and had also spent substantial time ailing before their unfortunate demise.

2 Amicus Shri Rakesh Reddy states that he has gone through the entire application and the explanation given therein are in place. In view of what is stated therein, the application is allowed in terms of prayer clauses-(a) to (h) & (j) which read as under :-

“(a) That this Hon'ble Court be pleased to ratify the appointment of Shri Sudhirbhai Joshi as the acting

Chairman of the Applicant Committee w.e.f. 12.09.2015 and further be pleased to confirm his appointment as the Chairman of the Committee from the date of disposal of the present Company Application ;

(b) That this Hon'ble Court be pleased to ratify the appointment of Mr.Sheetal Sanat Mehta as an acting member of the Applicant Committee w.e.f. 12.09.2015 and further be pleased to confirm his appointment as the member of the Committee from the date of disposal of the present Company Application ;

(c) That this Hon'ble Court be pleased to condone the delay between 01.10.2007 to 31.03.2016 in filing the Quarterly Reports of the Applicant Committee ;

(d) That this Hon'ble Court be pleased to take on record :

(i) The Affidavit in Support of the present Company Application in the nature of a Report of the Applicant Committee from 01.10.2007 to 31.03.2016 along with the annexures therein ;

(ii) The summarized Reports dated 10.08.2015 and 20.10.2015 prepared by the Committee (at Exhibits E-1 and E-2 herein);

(iii) The Minutes of all the Meetings of the Applicant Committee from the 42nd Meeting (dated 22.12.2007) till the 58th Meeting (dated 12.09.2015) (at Exhibits F-1 to F-17 herein);

(iv) The list of the state-wise distribution of the Claimants and their claims of Rs.41,31,46,943/- against the Company at the time of its liquidation (at Exhibit G-1 herein);

(v) The list of the Fixed Deposit holders having claims upto Rs.5000 (who have been paid and who are outstanding) and Fixed Deposit holders having claims more than Rs.5000/- (at

Exhibit G-4 herein);

(vi) The list of the further New claims of 4962 claimants with the Split up of the Fixed Deposit holders having claims upto Rs.5000/- and Fixed Deposit holders having claims more than Rs.5000/- in all amounting to Rs.1,69,53,990/- (at Exhibit G-5 herein);

(vii) The lists of the unclaimed depositors (out of the disbursements made to claim holders upto Rs.5000/-) amounting to a total of Rs.1,30,06,675/- (at Exhibits G-6 to G-7 herein);

(viii) The lists having a statement of the total sales of the properties of the Company amounting to Rs.20,32,44,000/- from F.Y. 1996-97 to F.Y.2010-11 given year-wise and property-wise (at Exhibits H-1 and H-2 herein);

(ix) The Financial summary of the Committee's accounts as at 31.03.2015 (showing the Sales proceeds, the Day-to-day expenses, the payments to Depositors and the surplus left over) (at Exhibit I herein) ;

(x) The Audited Balance Sheets of the Committee from F.Y. 1999-00 to F.Y.2014-15 and the provisional Balance Sheet till 15.09.2015 (at Exhibits J-1 to F-17 herein) ;

(xi) The Auditor's Report confirming the details of the additional receipt of Rs.1.25 crores received from Neb Sarai Land, New Delhi (at Exhibit K herein);

(xii) The Auditor's Report confirming the details of the additional receipt of the balance Rs.4,10,000/- in respect of the L.B.Apartment Flats at Surat (at Exhibit L herein);

(xiii) *The Auditors Report confirming the details of the receipt of the arrears of rent of Rs.2,55,000/- in respect of Radhasaomi Guest House (at Exhibit M herein);*

(xiv) *The photocopy of the Registered Sale Deed dated 21.12.2010 (in hindi) of the Company's property known as Kalp Kamdhenu at Indore (at Exhibit N herein);*

(xv) *The Auditor's Report confirming the details of the receipt of the sale consideration of Rs.20,00,000/- for the sale of the Company's property known as Kalp Kamdhenu at Indore (at Exhibit N-1 herein) ;*

(e) *That this Hon'ble Court be pleased to permit the Committee to retain, in fixed deposits, a sum of Rs.1,50,00,000/- in order that the interest thereon can fund the day to day expenses and the legal expenses of the Committee ;*

(f) *That this Hon'ble Court be pleased to permit the Committee to utilize the unclaimed amount of Rs.1,30,06,675/- and disburse the resulting sum available with it, of Rs.2,50,00,000/- crores to the remaining fixed deposit holders upto Rs.5000/- on a First Come First Serve basis ;*

(g) *hat this Hon'ble Court be pleased to issue an appropriate direction to the Central Bank of India, Marine Lines Branch (the Respondent No.2 herein) to transfer the balance funds Rs.2,61,823/- of the Committee, from the joint S/B A/c. Of Late Mr.Arvind Shah and Mr.Bharatsinh B.Jadeja being S/B. A/c. No.3016866415, to the Committee's own S/B. Account in the United Bank of India, Baroda branch, being S/B A/c. No.0383010035238*

(h) *That this Hon'ble Court be pleased to direct the Court Registry to give the Applicant Committee Certified Copies of the :*

(i) *Common Order dated 24.10.1991 and*

28.11.1991, passed by Shri A.A.Qazi,J (along with the Compromise Scheme annexed as a Schedule therein) whereby the Compromise Scheme of the Company was sanctioned in the present Company Petition No.76 of 1991 in Company Application No.135 of 1990; And ;

(ii) The Order of this Hon'ble Court passed by Justice Shri A.P.Shah (at Exhibit "B" to the present Company Application) dated 04.12.1997 in Company Application No.135 of 1990 in the present Company Petition No.76 of 1991, (wherein the present Committee was given all powers to recover the Company assets as per Exhibit "A" annexed to the said order)

(i)

(j) That this Hon'ble Court be pleased to modify and relax the condition of submission of Quarterly reports by the Applicant Committee and be pleased to allow the Applicant Committee to submit Annual reports for the year ending on 31st March of every year by the end of October of the relevant calendar year.

3 Application disposed. Court has to note valuable assistance given by the amicus curiae in this matter.

(K.R.SHRIRAM,J)