

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

COMPANY APPLICATION NO.186 OF 2018

COMPANY APPLICATION NO.196 OF 2014

M/s.Sandeep Steels)....Applicant

IN THE MATTER BETWEEN :

M/s.Shree Sai Industries Pvt. Ltd.)....Petitioner
V/s.

Official Liquidator on behalf of Maharashtra)
Power Transmission Structures Pvt. Ltd. & Ors)....Respondents

Mr.Devendra Tiwari I/by Law Chamber of Siddharth Murarka for the applicant.

Mr.Chirag Mody a/w Ms.Savita Ganoo I/by Ashok Purohit and Co. for respondent nos.2 & 3.

[Mr.Mahendhar Aithe-Company Prosecutor for OL present].

CORAM : K.R.SHRIRAM,J

DATE : 23.7.2018

P.C.:-

1. Mr.Tiwari for the applicant is pressing for only prayer clause-(a) for leave under Section 446 of the Companies Act 1956 to prosecute Suit No.404 of 2015 filed against the company and its directors. Mr.Tiwari states that the words “and its Directors” in prayer clause-(a) only described the suit and applicant is not seeking leave under section 446 to sue the Directors.

2 Mr.Mody for respondent nos.2 & 3 points out that when an identical application was taken out being Company Application No.796 of 2015, the application was rejected by an order dated 2.2.2017 because the applicant was not willing to pay the litigation cost as may be incurred by the Official Liquidator in the said suit. Mr.Mody states that there is no averments in the affidavit in support that the applicant will pay those legal cost. Mr.Tiwari states that the applicant will bear the legal cost as may be incurred by the Official Liquidator in the said suit. The applicant will place the Official Liquidator in funds within one week of receiving a communication from the Official Liquidator.

3 Therefore, leave under section 446 is granted to prosecute Suit No.404 of 2015 against the company in liquidation. No such leave is required against any other defendants.

4 Application disposed.

For completion of record, registry to accept affidavit in reply.

(K.R.SHRIRAM,J)

Jahagirdar
Kiran
Ganesh
Digitally
signed by
Jahagirdar
Kiran
Ganesh
Date:
2018.07.25
13:11:52
+0530