

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

**COMPANY APPLICATION NO.697 OF 2017
IN
COMPANY PETITION NO.1176 OF 2001**

Mr.Rajendra Vasant Surve & Ors.)....Applicants

IN THE MATTER BETWEEN :

Indian Link Chain Manufacturers Ltd.)....Petitioner
V/s.

The Official Liquidator, High Court, Bombay)....Respondent

WITH

OFFICIAL LIQUIDATOR REPORT NO.62 OF 2018

Mr.S.C.Naidu I/by T.R.Yadav for the applicants.

Mr.R.K.Sharma I/by Sharma Syndicate Lex. Co. for Employees
Provident Fund, Kandivali.

Mr.Naushad Engineer for Official Liquidator.

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

CORAM : K.R.SHRIRAM,J

DATE : 9.7.2018

P.C.:-

1. This application is seeking a direction to the Official Liquidator to deposit Rs.22,04,61,657/- with the Employees Provident Fund Organization, Thane and for a direction to the Regional Provident Fund Commissioner, Thane to comply with the statement made by the counsel for Provident Fund Authority as recorded in the order dated 15.3.2018. In effect, what the applicant is seeking by the 2nd part of the application is to direct Provident Fund Authority that

upon receipt of payment the amount shall be disbursed amongst the employees in accordance with law expeditiously.

2 The Official Liquidator has taken out an Official Liquidator's Report No.62 of 2018 dated 13.3.2018 which is not on board. By consent, Official Liquidator's Report No.62 of 2018 is taken up for hearing along with the Company Application.

3 In the Official Liquidator's Report, Liquidator has raised certain issues regarding the Employees Provident Fund Office, Kandivali not making payments. Mr.Sharma for Employees Provident Fund Office, Kandivali submits that Employees Provident Fund Office, Kandivali has no role to play whatsoever and the order dated 15.3.2017 incorrectly records that the Employees Provident Fund Office, Kandivali is not taking any steps and an appeal challenging the observations made in that order has been lodged by the Employees Provident Fund Office, Kandivali and that appeal is pending. Mr.Sharma's contention is that Provident Fund Authority, Thane is concerned with the matter and not Employees Provident Fund Office, Kandivali.

4 The Liquidator states that as and when any money comes from Employees Provident Fund Office, Kandivali, the same will be accounted for declaration of workers and secured creditors and a report will be placed. According to Liquidator there are substantial amounts lying invested in fixed deposit in Punjab & Maharashtra Co-op Bank Ltd and UCO Bank and both these banks be directed to terminate the fixed deposits before maturity and transfer the amounts as stated in the Official Liquidator Report to the concerned account to be paid over to workmen. Liquidator is seeking a direction against Punjab & Maharashtra Co-op Bank Ltd to pay Rs.21,77,12,690/- and UCO Bank be directed to pay Rs.1,63,36,644/- to Official Liquidator to enable the Official Liquidator to declare dividend to Employees Provident Fund Office, Thane, Bandra and Vadodara so that Employees Provident Fund Office, Thane, Bandra and Vadodara can distribute those amounts to the workmen.

5 Since the amounts involved are substantial, Punjab & Maharashtra Co-op Bank and UCO Bank are directed to prematurely terminate the fixed deposits and transfer the amounts to Employees Provident Fund Office account, that will be provided by the Official Liquidator, within 48 hours of receiving instructions from the Liquidator. It is also clarified that this would amount to compliance by

the Liquidator of Section 555 of the Companies Act 1956. EPFO Authorities are directed to, within 72 hours of receiving communication from the Official Liquidator, provide the Official Liquidator with the bank details to which the amounts should be credited and on no grounds EPFO will make delay in providing the details.

6 Regional Provident Fund Commissioner to whose office these amounts are transferred by the Liquidator, shall ensure that within 30 days the amounts are distributed to the respective workmen.

7 In view of the above, prayer clauses-(a) to (d) of the Official Liquidator Report granted with the clarification as noted above.

Application and Official Liquidator Report both disposed.

(K.R.SHRIRAM,J)