

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

**COMPANY APPLICATION NO.123 OF 2017
IN
COMPANY PETITION NO.408 OF 2015**

Maharashtra Industrial Development Corporation)....Applicant

IN THE MATTER BETWEEN :

Rakesh Satyaprakash Kapoor)....Petitioner
V/s.

Cosmos Fibre 2 Fashion Pvt. Ltd. & Anr.)....Respondents

Ms.J.Panday i/by A.R.Bhole and Co. for the applicant.

Mr.Raj Patel a/w Ms.Amruta Sawant i/by Sonal Doshi and Co. for original petitioner.

[Mr.Jagdish Khanna-respondent no.2 appeared in person].

[Mr.Mahendhar Aithe-Company Prosecutor for Official Liquidator present].

CORAM : K.R.SHRIRAM,J

DATE : 15.6.2018

P.C.:-

1 This application is taken out by Maharashtra Industrial Development Corporation- the owners of the Industrial plots for leave to intervene in the petition and to restrain the Official Liquidator who has been appointed as provisional liquidator from taking possession of plot no.N-69, Tarapur Industrial area, MIDC, Tarapur (the said plot).

2 This is a petition where the fight basically is between the

two promoters of the respondent no.1 company. Petitioner wants the company to be wound up and respondent no.2 does not want the company to be wound up. There is a complete dead lock. The company was incorporated in October-2005, petitioner and respondent no.2 have been at loggerheads since then and nothing has progressed. There has been no meetings and no returns filed with the Registrar of Companies. The plot belongs to MIDC and respondent no.1 has purchased it in an auction because the earlier lessee had mortgaged the plot to SICOM and SICOM auctioned the lease rights to Respondent. Pursuant to the deed of assignment dated 14.11.2006 SICOM had become the lessee of the said plot.

Ms.Panday for the applicant states that since that date the applicant is not getting any lease rent because respondent no.1 has not completed any documentation required for transfer of lease. Ms.Panday states that in the fight between petitioner and respondent no.2, it is the applicant who is suffering.

3 In the circumstances, having considered the affidavit in support, affidavit in reply filed by petitioner and having heard the counsel, in my view, it is a fit case to grant reliefs sought in prayer clauses-(a) and (b).

4 Ms.Panday undertakes on behalf of the applicant that the applicant will not create any 3rd party rights or gave the plot to any party without leave of this court. Undertaking accepted.

5 Mr.Aithe Company Prosecutor states that on 23.5.2018 Official Liquidator has taken physical possession by affixing his seal on the lock which was already there in the factory premises. Official Liquidator to remove the seal.

6 Therefore, the application is allowed in terms of prayer clauses-(a) and (b) which read as under :-

“(a) The Hon'ble Court be please to allow the Applicants to intervene in the interest of justice ;

(b) That this Hon'ble Court be pleased to allow the aforesaid Company Application restraining the Official Liquidator from taking possession of plot no.N-69 in Tarapur Industrial Area, MIDC, Tarapur, as the same has not been leased to the 1st Respondent by the MIDC and they do not have proper right or title to the said plot.”

7 Application disposed.

(K.R.SHRIRAM,J)