

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

COMPANY APPLICATION NO.134 OF 2016

IN

COMPANY PETITION NO.1195 OF 2015

Muffazal Hakim Penwala and Ors.

....Applicants/Petitioners

Vs.

Deli Penrex Stationery Pvt. Ltd. (In Liqn.) & Ors.Respondents

Mr. Anoshak Daver a/w. Mr. Sumit Raghani i/b. Agrud Partners for applicants/petitioners.

Mr. Tapan Agrawal i/b. Little and Co. for respondent no.2.

Mr. K.D. Jha for respondent no.3.

Mr. Mahendhar Aithe, Company Prosecutor for Official Liquidator present.

CORAM : K.R.SHRIRAM, J.

DATE : 26th FEBRUARY, 2018

PC.:

1 This application is filed to quash and set aside office order dated 1st December, 2015 passed by Official Liquidator.

2 Respondent no.1 is a Joint Venture Company. Applicants with others held 49% shares in the company and the remaining 51% shares were with respondent no.2. There was a deadlock in the business and respondent no.1 was in no position to carry on the business and manage the affairs of the company. All the shareholders were before the Court in company appeal no.63 of 2014. On the joint request of all the shareholders, that it is just and equitable that respondent no.1 company be wound up by the Court, the Court converted the appeal, which was filed under Section 10 (F) of the Companies Act, 1956, into a petition for winding up under the

provisions of Section 439 of the Companies Act, 1956. The Court admitted the petition and directed the same to be advertised in accordance with the relevant provisions of the Company Court Rules and renumbered the petition as such.

3 Applicants have approached this Court stating that the premises, which was ordered to be taken possession of by Official Liquidator vide order dated 1st December, 2015, which is impugned in this application, was not an asset of respondent no.1 company but was a premises of which applicant no.1 was the tenant. Applicant, therefore, submits that the question of Official Liquidator taking possession of the premises, viz., Shop No.1-2, India House, Ground Floor, 246, Abdul Rehman Street, Mumbai – 400 003, does not arise.

4 On 9th January, 2018 leave to add the owner of the shop was granted to applicant. Applicant, therefore, added respondent no.3. Respondent no.3 has filed an affidavit affirmed on 17th February, 2018 in which it is stated that the real landlord/landlady is one Nuzhat Akthar Qutubuddin Shamsi, who is the maternal aunt of respondent no.3 and the said landlady has assigned all her rights to respondent no.3 to take care of all her properties.

5 Mr. Jha, counsel for respondent no.3 states that the owner of the property is not respondent no.1 and confirms that applicant no.1 is the

tenant of the said premises and apart from such tenancy rights, applicant no.1 or any other party have no right in the property. The only person who is entitled to the property is the aunt of respondent no.3 as mentioned above.

6 Mr. Agrawal, counsel for respondent no.2 states that respondent no.2 has no objection if the relief as sought in the application is granted.

7 In the circumstances, having heard the counsel and considered the affidavits filed and for reasons as recorded above, the application is allowed and accordingly disposed in terms of prayer clause – (a) which reads as under :

“(a) that this Hon'ble Court be pleased to quash and/or set aside office order no.OL/Liquidation Section-XI/Outdoor-Duty/867 dated December 1, 2015 issued by the office of the Official Liquidator, High Court, Bombay.”

(K.R. SHRIRAM, J.)