THE HON'BLE SRI JUSTICE CHALLA KODANDA RAM

COMPANY APPLICATION No. 693 OF 2017
IN
COMPANY PETITION No.84 of 1997

O R D E R :

This Application is filed by the applicant company seeking permission to come on record, by substituting the 2nd respondent-Catholic Syrian Bank Limited, as the secured Creditor of the 1st respondent company.

The brief averments of the affidavit filed in support of the application are that the Applicant company is incorporated under the provisions of the Companies Act, 1956 (in short "the Act") and registered under the provisions of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (in short "SARFAESI Act"). The 1st respondent company was ordered to be wound up by orders of this Court dated 19.08.1998 in C.P.No.84 of 1997. The 2nd respondent-Catholic Syrian Bank Ltd., was the secured creditor of the 1st respondent and sanctioned certain loans to it. However, by virtue of the registered Deed of Assignment, dated 30.03.2012, the 2nd respondent had assigned and transferred its debts in favour of the Applicant, thereby, it is deemed that the applicant is the absolute legal owner and entitled to the financial assets, underlying security interest and would be entitled to recover and receive all amounts due from the borrower and the guarantors under the financial assets including the right to file suit or institute such other recovery proceedings or to take any other action as may be required for the purpose of recovery of the loan in its own name and to exercise all other rights of the respective banks, financial institutions in relation thereto. Therefore, pursuant to the assignment, under Section 5(4) of the Act, the applicant is entitled to be substituted in place of the original lendor-2nd respondent. Hence, the present Application.

Heard the learned counsel for the applicant.

A perusal of the Assignment Agreement, dated 30.03.2012, entered into between the Applicant and the 2nd respondent, discloses that in Schedule-I the financing documents, relating to three companies viz., M/s. Western Industries Limited, Leafin India Ltd., and the 1st respondent company, were assigned to the Applicant company and the financing documents, worth about Rs.0.83 crores, relating to the 1st respondent company, were shown at 3rd table (at Page No.29 of the Assignment Agreement), and all the movable and immovable properties, given as security by the 1st respondent to the 2nd respondent, were also assigned to the Applicant company, which clearly shows that the 2nd respondent-Catholic Syrian Bank Ltd., has assigned certain financial documents and the properties, both movable and immovable, taken as security, to the Applicant company.

Therefore, in view of the Assignment Agreement, entered into between the Applicant and the 2nd respondent Bank, the Company Application is ordered and the Applicant is permitted to come on record in place of the 2nd respondent-Catholic Syrian Bank Limited. There shall no order as to costs.

CHALLA KODANDA RAM, J

Date:12.07.2018

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