

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

COMPANY APPLICATION NO.121 OF 2019

IN

COMPANY PETITION NO.518 OF 2014

Kotak Mahindra Bank Ltd. )....Applicants

**IN THE MATTER BETWEEN :**

Streamline Shipping Company Pvt. Ltd. )....Petitioner

V/s.

Omnitech Infosolutions Ltd. (In Liqn.) )....Respondent

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Mr.Rohit Gupta a/w Ms.Jyoti Sanap i/by V.Deshpande & Co. for applicants.

Mr.Shanay Shah, for OL.

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

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**CORAM: K.R.SHRIRAM,J**

**DATE : 4.9.2019**

**P.C.:-**

1. Mr.Gupta for the applicants states that the license fees which they are claiming under this application is license fees paid by licensees for occupying the mortgaged properties. Mr.Gupta states when applicants went to take possession, 3<sup>rd</sup> parties were found in occupation as licensees and they were directed to deposit the license fees with the DRT. Mr.Gupta states licensees in fact deposited the

amount with the Liquidator pursuant to orders of this court. Mr.Gupta states to the extent of that amount, applicants are secured creditors.

2. Mr.Shah for Official Liquidator states that applicants are not secured creditors because this amount is not from the sale proceeds of the mortgaged property. Mr.Shah states that even if licensees pay the amount pursuant to orders passed by DRT, still Official Liquidator would have called upon applicants to pay all those amounts to Official Liquidator. Mr.Shah states once the company is in liquidation, the assets belong to the Liquidator and unless the assets are entered in the register as required under Section 125 of the Companies Act 1956, there can be no charge. Mr.Shah says there is no charge created on this license fees. Mr.Shah states that the applicants may lodge the claim with the Official Liquidator and the Official Liquidator may dispose of the application in accordance with law.

3. Mr.Gupta is agreeable. Application therefore, is dismissed as withdrawn with liberty to applicants to lodge the claim with Official Liquidator who shall consider and dispose of the same in accordance with law.

4. I have only noted the rival submissions above and have not expressed any opinion on the validity of the applicants' claim. The same can be decided by the Official Liquidator in accordance with law. Official Liquidator will consider the claim independently on its own merits based on the submissions and documents filed by applicants.

**(K.R.SHRIRAM,J)**