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

COMPANY APPLICATION NO.12 OF 2019

IN

OFFICIAL LIQUIDATOR'S REPORT NO.370 OF 2016

M/s.Aditya Developers Corporation & Anr.)....Applicants

And

BIFR)....Petitioner

V/s.

M/s.Gandhinagar Electronics Ltd. & Anr.)....Respondents

WITH

OFFICIAL LIQUIDATOR'S REPORT NO.69 of 2019

Mr.Ruchir Tolat I/by Vishal Acharya for applicants.
Mr.J.P.Sen, senior Advocate for OL.
[Mr.Suhas Sawant-Dy.OL present].

CORAM : K.R.SHRIRAM,J
DATE : 17.7.2019

P.C.:-

1. This application is for directing the Official Liquidator to hand over the original documents relating to property situated at plot nos.A-12, A-13 & A-14 situated at Sector 25, GIDC Electronic Estate, Gandhinagar and also to hand over physical possession of the property with construction on the property.

2. Mr.Sen senior Advocate for Official Liquidator confirms that further to the order dated 2.5.2019, applicant has deposited Rs.54 lakhs with the Official Liquidator and therefore, prayer clauses-(a) and (b) can be granted since possession has already been handed over to applicant.

3. In the affidavit-in-reply, before the order directing applicant to pay Rs.54 lakhs, Official Liquidator has taken a stand that the status of applicant recorded as secured creditor is incorrect and actually applicant should be categorized as an unsecured creditor. Mr.Sen states that this change has become necessary because Liquidator later came to know that the charge which applicant claims in his favour, was not registered under section 125 of the Companies Act 1956. The same, in my view, cannot come in the way of applicant being granted prayers-(a) & (b) in this application. The Official Liquidator to file Report seeking appropriate prayers to change the categorization of applicant from secured creditor to unsecured creditor and the Report will be heard on its own merits. It is made clear that allowing the current application does not mean that applicant's stand that they are secured creditors has been accepted by the Court.

4. Mr.Tolat for applicant also states that there is a safe weighing about 300 kilos in the factory premises and nobody has a key to that safe. Therefore, Official Liquidator to take steps to engage a

locksmith to open the same in presence of the representative of Official Liquidator with notice to ex-director of the company in liquidation and the applicant. Liquidator to open the safe, make an inventory of the contents and relock the safe using the duplicate key. If it is not possible to make duplicate key and open the safe and the safe has to be broken into, Liquidator may do so, in which case the Liquidator after making an inventory, to bring the contents to office of the Liquidator and place it in the safe custody of the Liquidator. If inventory can be kept inside and door of the safe can be welded, Liquidator may also do that. Decision what to do is left to the Liquidator.

5. Liquidator to execute the documents in favour of Aditya Developers Corporation or Shree Kanaiya Corporation as per the request made by applicant. Official Liquidator's Report including the Report of the Site visit for opening the safe to be filed within 4 weeks.

Application disposed.

<u>OFFICIAL LIQUIDATOR'S REPORT NO.69 of 2019</u>

6. Mr.Sen states that nothing survives in this Report but if some part of the Report is required to be factored in the fresh Report, the same will be factored in the fresh Official Liquidator's Report for

which liberty be granted.

Official Liquidator's Report disposed accordingly, with the liberty as prayed for.

(K.R.SHRIRAM,J)