

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

COMPANY APPLICATION NO.684 OF 2018

IN

COMPANY PETITION NO.433 OF 2013

Meyer Burger (Germany) Gmbh)....Applicant

IN THE MATTER BETWEEN :

Larsen and Toubro Limited)....Petitioner

V/s.

Birla Surya Limited & Anr.)....Respondents

WITH

COMPANY APPLICATION NO.351 OF 2017

COMPANY APPLICATION NO.440 OF 2017

OLR NO.4 OF 2019, OLR NO.19 OF 2019

Ms.Pooja Vasandani I/by M/s.Rajani Associates for applicant.
Ms.Niyati Merchant I/by MDP & Partners for applicant in CA 351/2017 and CA 440/2017.
Ms.Prangana Barua I/by M.K.Ambalal and Co. for original petitioner.
Mr.Shashikant Gaikwad I/by Parineet Sratkar for respondent no.6 in CA 351/2017 and for respondent no.7 in CA 440/2017.
Ms.Suvarna Joshi for respondent no.7 in CA 351/2017 and for respondent no.8 in CA 440/2017.
Mr.Shanay Shah for OL.
[Mr.Suhas Sawant-Dy.OL present].

CORAM : K.R.SHRIRAM,J

DATE : 17.7.2019

P.C.:-

1. Ms.Vasandani for the applicant states that two offers have been received for the equipments which are mentioned in the affidavit in support to the application, one from Ringo Thiel and the other from the applicant itself for € 39270 and € 80000, respectively. Copy of the offers are taken on record and marked 'X' colly.

2. The offer of the applicant is € 80000 net and the entire amount will be paid to the Liquidator. Ms.Vasandani states there are some storage charges and valuation charges which the applicant had to incur.

3. Mr.Shah on instructions from the Liquidator states the equipments have been lying in Germany since 2012 and the cost that Liquidator may incur to get a better offer, probably will be very high. Mr.Shah submits that as offer has come after six years from the applicant itself of € 80000 compared to offer of Ringo, the offer of applicant of € 80000 be accepted and if applicant has any claim towards storage or valuation charges, the same may be lodged with Official Liquidator who shall consider the same in accordance with Law. Ms.Vasandani has no objection.

3. In the circumstances, the goods which are the subject matter of the affidavit in support of the application, be sold to applicant upon applicant paying sum of € 80000 to the Official Liquidator without any deductions. Even bank charges will have to be paid by the applicant. Upon this amount being paid, applicant is at liberty to appropriate the said goods to itself. After making payment of € 80000, applicant may lodge a claim with the Official Liquidator who shall consider the claim in accordance with law.

Application accordingly disposed.

**COMPANY APPLICATION NO.351 OF 2017
AND
COMPANY APPLICATION NO.441 OF 2017**

4. Counsel Ms.Niyati Merchant is unable to assist the Court. Counsel states that amendment has been carried out to the applications pursuant to order dated 1.8.2018. I find no amendment has been carried out and Mr.Shah also states even he has not received any amendment application. Further affidavit in support was to be filed upon the leave granted on 1.8.2018 but Ms.Merchant is unable to state whether such an affidavit has been filed. The board was released on 12.7.2019 and the applicants' advocate had 4 days to go through

the papers and be prepared to go on with the matter.

5. In view of the inability of the counsel to assist the Court, the matter has to be adjourned.

6. Stand over to 31.7.2019.

(K.R.SHRIRAM,J)