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

INTERIM APPLICATION NO.1 OF 2019
IN
COMPANY PETITION NO.311 OF 2011

Prashant P. Abhyankar ...Applicant

IN THE MATTER BETWEEN :

State Trading Corporation OF India Ltd. ...Petitioner
V/s.
Ushma Jewellery & Packaging Exports Pvt. Ltd. ...Respondent
And
The Official Liquidator ...Proposed Respondent

Mr.Ali Abbas Delhiwala with Ms.Nayna Rane and A. Pradhan i/b M/s.Divya Shah Associates for the Applicant.

Ms.S.I. Shah i/b M/s.S.I. Shah & Company for the Petitioner.

Mr.Jehangir Jeejeebhoy for the Official Liquidator.

Mr.Mahendhar Aithe, Company Prosecutor present.

CORAM : R.D. DHANUKA, J.
DATE : 12TH DECEMBER, 2019.

P.C. :-

1. By this company application, the applicant who is Ex.Director of the respondent company seeks leave under section 446(2) of the Companies Act, 1956 to bring the Official Liquidator, High Court, Bombay on record and to represent on behalf of the respondent company who had filed a Suit No.7 of 2011 against the State Trading Corporation Of India Limited.

2. Learned counsel appearing for the applicant invited my

attention to the orders dated 7th November, 2019 and 21st November, 2019 passed by Shri Justice G.S. Kulkarni regarding the objection raised by the State Trading Corporation Of India Limited that since no steps are taken out to bring the Official Liquidator on record in place of the plaintiff no.1 therein, the matter was adjourned to enable the Official Liquidator to file the application.

3. Ms.Shah, learned counsel appearing for the petitioner opposes this company application on the ground that Prashant P. Abhyankar, the applicant in this application who is the Ex. Director of the respondent company is absconding in the proceedings filed under section 138 of the Negotiable Instruments Act and does not remain present in those proceedings and thus cannot be allowed to file this company application. Learned counsel further states that the order of proclamation is also issued by the Criminal Court against the applicant.

4. A perusal of the verification clause indicates that the applicant has signed and verified the application before the Notary Public Virendra J. Pereira. If the said applicant is absconding in those proceedings filed under section 138 of the Negotiable Instruments Act by the State Trading Corporation Of India Limited, the State Trading Corporation Of India Limited can take appropriate steps against the applicant in that matter.

5. Since the suit was filed by the company in liquidation

against the said State Trading Corporation Of India Limited and in view of the orders passed by this Court on 7th November, 2019 and 21st November, 2019, I am inclined to grant leave as prayed.

6. The interim application is accordingly made absolute in terms of prayer clauses (a) and (b). The amendment to be carried out in the said Suit No.7 of 2011 within two weeks from today. The applicant is also permitted to carry out amendment in the suit. The amended copy of the suit shall be served upon the defendants therein within one week from the date of carrying of amendment.

7. The applicant is directed to deposit a sum of Rs.1,00,000/- initially within two weeks from today and shall deposit the amount as and when any requisition by the Official Liquidator is issued within two weeks from the date of such communication, without fail.

(R.D. DHANUKA, J.)