

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY AND ORIGINAL CIVIL JURISDICTION
COMPANY APPLICATION NO.32 OF 2019
IN
COMPANY PETITION NO.166 OF 2002**

Hitenkumar Rameshchandra Vasant	..Applicant
IN THE MATTER BETWEEN	
Board of Industrial and Financial Resource	..Petitioner
Vs.	
The Official Liquidator, High Court, of	
M/s Modistone Pvt Ltd.	..Respondent

Mr. Vishal Kanade a/w Mr. Anuj Jhaveri i/b PSL Advocate and Solicitors for Applicant
Mr. Sharan Jagtiani a/w Mr. Aditya Pimple, Advocates for Official Liquidator;
Mr. Mahendhar Aithe, Company Prosecutor present

**CORAM : K.R.SHRIRAM, J.
DATE : 21st AUGUST 2019**

P.C.:

1 Mr. Jagtiani appearing for liquidator in fairness states that; a) none of the documents indicate the company in liquidation was the owner of the property; b) at the most, the company had only leasehold rights, which from the documents available, seems to have expired on 30-9-2001; c) therefore, the liquidator will have no objection to grant of prayer clause (a) in this application. At the same time, Mr. Jagtiani states that the official liquidator has not been able to sight any documents confirming legal title on applicant, but there are documents and communications, which indicate that applicant might be the owner / lessor of the property. Mr.

Jagtiani states that when the possession of the property was taken, father of applicant was also present.

2 Mr. Jagtiani also states that applicant addressed the first communication sometime in 2003, for return of the property and there has been exchange of communications between applicant and official liquidator. Mr. Jagtiani states that no other party has even approached the liquidator seeking possession of the said property.

3 Mr. Jagtiani, therefore, suggest that applicant be directed to issue a public notice in Ahmedabad, one in English newspaper and one in Gujarati newspaper, indicating therein the liquidator is inclined to hand over possession to applicant and if any one has objection, the same to be lodged within 14 days of the publication of notice in newspaper.

 If no objection is received, the liquidator may hand over possession subject to receiving appropriate indemnity from applicant.

4 Mr. Kanade states that if anyone else had any right or interest in the property, they would have atleast addressed some communication to the official liquidator and as there are no such communications in the last 18 years, the court should permit the liquidator to hand over possession against an indemnity in the usual form. Mr. Kanade also states that applicant shall not claim any rent or compensation or hold liquidator liable for any claim.

5 I agree with Mr. Kanade. Admittedly there has been no communication from any one apart from applicant in the last 18 years. The

liquidator has also been exchanging communications with applicant. Applicant's father also was present as stated by Mr. Jagtiani, when the possession of the property was taken. Therefore, I see no harm in granting prayer clause (a) against the usual indemnify. Prayer clause (a) reads as under:

(a) that this Hon'ble Court be pleased to direct the office of the Official Liquidator to forthwith handover possession of the property i.e. Godown (Gala No.1, 2 and 3) Survey No.51/1, situated at Paiki, Mouje Okaf, Dist. Sub. Dist. Taluka, City Ahmedabad.

6 Company application accordingly stands disposed.

(K.R. SHRIRAM, J.)