

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
OFFICIAL LIQUIDATOR'S REPORT NO.42 OF 2018
WITH
COMPANY APPLICATION (L) NO.704 OF 2018
IN
COMPANY PETITION NO.381 OF 2014**

In the matter of the Companies Act, I
of 1956

And

In the matter of Rustech Products
Pvt. Ltd. (In Liqn.)

Maa Sarada EnterprisesPetitioner

Mr. Prathamesh Kamat I/b. R.P. Oza for intervener and for applicant in
CAL/704/2018.

Mr. A.R. Shaikh I/b. Hussein and Company for petitioner.

Mr. Bhupesh V. Samant for secured creditor – Saraswat Co-op. Bank Ltd.

Mr. Rakesh Reddy for Official Liquidator present.

Mr. Rohit Gupta a/w. Ms. Sumedha Sawant I/b. Nainesh Amin for Mr. Bipin
Zaveri, ex-director⁵ of respondent company.

Mr. V.P. Katkar, Official Liquidator present.

Mr. Mahendhar Aithe, Company Prosecutor for Official Liquidator present.

CORAM : K.R.SHRIRAM, J.

DATE : 26th JULY 2019

P.C.:

COMPANY APPLICATION (L) NO.704 OF 2018

1 Mr. Kamat, counsel for applicant states that the difference in
valuation comes to about a little less than Rs.21 lakhs and applicant is ready
and willing to pay Rs.21 lakhs and get a closure in the matter.

2 Mr. Reddy, counsel appearing for Official Liquidator also agrees
that the difference is as indicated by Mr. Kamat and it is based on a

valuation ordered by this Court. Mr. Reddy states that if applicant is ready and willing to pay Rs.25 lakhs, the Court may allow the application.

3 It is a fair suggestion by the Liquidator. The sale happened after the liquidation proceedings commenced. It has to be noted that the partners of applicant are also the siblings of the promoters/directors of the company in liquidation and they are in adjoining premises. The sale consideration paid by applicant has been withdrawn from the company by the ex-directors despite being aware that a winding up process has begun and separate Official Liquidator's Report is taken by the Liquidator which is pending consideration and the same is also listed today. Therefore, it would be very difficult for the Court to accept that applicant was an innocent purchaser. At the same time, even if the property is taken back from applicant, Liquidator will have to again sell that property after incurring cost and it is unlikely whether a price which will exceeding the valuation indicated will be fetched. Therefore, if applicant is directed to pay Rs.25 lakhs to Liquidator, in my view, the application can be allowed in terms of prayer clause – (a).

4 The amount of Rs.25 lakhs shall be paid to Liquidator within four weeks from today. Upon receiving the amount of Rs.25 lakhs, Liquidator may validate and confirm the sale.

5 Application accordingly stands disposed.

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6 Mr. Gupta states that the reply of the ex-directors is ready and will be filed in the registry during the course of today and copy has been served on the Liquidator yesterday.

7 Rejoinder, if any to be filed and copy served within two weeks from today.

8 Stand over to 23rd August 2019.

(K.R. SHRIRAM, J.)