

COMP.A.No.425 of 2018
in C.P.No.123 of 2016 in
C.S.No.163 of 2016

SENTHILKUMAR RAMAMOORTHY, J.

This application is filed to direct the secured creditor of the company in liquidation and the Official Liquidator to handover the raw materials and packing materials supplied by the applicant as also the finished products lying at the factory premises of the company in liquidation at the address specified in the Judges summons.

2. I heard the learned counsel for the applicant and the learned counsel for the 1st respondent / secured creditor and the Deputy Official Liquidator.

3. The learned counsel for the 1st respondent / secured creditor submits that a charge was created over the factory premises of the company in liquidation in favour of a consortium of banks, including the 1st respondent, and that the secured creditor also had a charge over all the other assets of the company in liquidation. Accordingly, the secured creditor was in possession of the said assets and the subject matter raw materials and finished products were also lying in the said factory. He further submitted that pursuant to the earlier orders of this

Court dated 07.06.2019, the Drug Controller of Tamil Nadu was directed to identify the nature of the finished goods and also packing materials and file a report before this Court.

4. Pursuant thereto, he submitted that a report dated 28.06.2019 was submitted, wherein it is recommended that the identified semi finished and finished materials, as mentioned in the said report, should be destroyed by engaging the services of an approved bio waste management agency. Therefore, he submitted that the present application is infructuous.

5. The learned counsel for the applicant submitted that this state of affairs would not have ensued, but for the delay in handing over these goods to the applicant. Accordingly, he submitted that he should be permitted to file a claim before the Official Liquidator by filing Form 66.

6. In view of the above submissions, it is clear that this application has been rendered infructuous except to the extent that the secured creditor should be directed to take appropriate steps to destroy the identified semi finished and finished materials as per the report dated 28.06.2019 by engaging the services of an approved bio waste management agency.

7. The 1st respondent / secured creditor is directed to undertake and complete the exercise on or before 25.10.2019 and report compliance. As requested, the applicant is permitted to file a claim with the Official Liquidator as and when the Official Liquidator calls for claims.

This application is disposed of with the above observations and directions.

27.09.2019

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