

THE HON'BLE SRI JUSTICE CHALLA KODANDA RAM

COMPANY APPLICATION No. 470 OF 2018

ORDER:

This Application was filed seeking leave of the Court, invoking Section 446(1) of the Companies Act, 1956, to permit the applicant company to prosecute arbitration proceedings pending before the sole arbitrator Sri Nikhil S. Karnavat, Pune, who was appointed in terms of the order dated 23.11.2017 in Arbitration Petition No. 72 of 2014.

Now, it is brought to the notice of this Court that the Managing Director of respondent company, which is in provisional liquidation, was arrested and a large number of cases are pending in various Courts and the possibility of the company in liquidation getting revived are bleak. It is further asserted by the learned Official Liquidator that the amounts owed by the company in liquidation to the financial institutions – secured creditors, runs into about Rs.2000 crores. In those circumstance, contesting the claim of the applicant by engaging a counsel on behalf of the company in liquidation by the Official Liquidator would only result in incurring further expenditure and no useful purpose would be served. Further, it is submitted by the learned counsel for the Official Liquidator that as and when the notification is issued inviting claims, in terms of Section 529 and 530 of the 1956 Act read with Rule 148 of the Rules, the applicant can submit their claims and on such submission, the Official Liquidator will consider the same.

Having regard to the factual position, as rightly submitted by the learned counsel for the Official Liquidator, no useful purpose

would be served and it will also be a futile exercise in conducting the arbitration proceedings before the Arbitrator and incur the expenditure for and on behalf of the company in liquidation.

Inasmuch as the Official Liquidator is empowered to consider / adjudicate upon the claims, in terms of Sections 529 and 530 of the Act, leaving it open to the applicant to approach the Official Liquidator by making a claim as and when notification is issued calling for the claims, this present Application is closed.

CHALLA KODANDA RAM, J

26th June 2019

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