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

**APPEAL (L) No.605 OF 2019
IN
OFFICIAL LIQUIDATOR REPORT NO.195 OF 2019
WITH
INTERIM APPLICATION NO.1 OF 2020**

Maharashtra State Financial Corporation ..Appellant.

V/s.

Official Liquidator & Ors. ..Respondents.

Mr.Indrajeet Kulkarni for the appellant.

Mr.Sharan Jagtiani with Mr.Achilya Pimple for the Official Liquidator.

Ms.Alisha Lambay I/b. Vikas Singh for the original petitioner.

Ms.Priyanka Shah with Mr.Vineet Kothari i/b. M/s. Apex Law Partners for respondent No.5.

**CORAM : K. K. TATED &
SARANG V. KOTWAL, JJ**

DATE : JANUARY 21, 2020

P.C. :-

Heard learned counsel for the parties.

2. At the request of learned counsel for the parties, the appeal is taken up for final disposal at the stage of admission.

3. The impugned order is dated December 11, 2019

passed by the learned Single Judge in Official Liquidator's Report No.195 of 2019 allowing the same in terms of prayer clause (c).

Said order reads thus:-

"1. Despite service, none appear for Respondent No. 2 – Maharashtra State Financial Corporation.

2. Perused the above report. For the reasons set out in the Report, the same is allowed in terms of prayer Clause (c), which is reproduced hereunder.

"(c) This Court be pleased to direct Respondent No. 2 to bring back and transfer to the custody of the Official Liquidator, the amounts disclosed by Respondent No. 2 as lying with it from the sale proceeds of the properties of the Company in liquidation in terms of prayer Clause (a) (iii)."

3. The amount shall be deposited by the Respondent No. 2 – MSFC with the Official Liquidator on or before 19th December, 2019.

4. A copy of this order shall be forthwith served on Respondent No. 2 by hand delivery by the office of the OL.

5. Stand over to 20th December, 2019 at 05.00 p.m. in Chambers."

4. Learned counsel Mr.Kulkarni appearing on behalf of the appellant submits that the said order was passed by the learned Single Judge without waiting for the reply to be filed by

the appellant. After the matter was argued for some time, both the counsel filed Minutes of order dated January 21, 2020. The same reads thus:-

“1. By consent and without prejudice to the rights and contentions of the parties, the present Appeal is disposed off with a direction that Learned Single Judge shall consider the Official Liquidator’s Report No.195 of 2019 afresh, only as against the Appellant herein, after allowing the Appellant herein to file Affidavit in Reply to the Official Liquidator’s Report No.195 of 2019, as the Appellant has not done so. This Affidavit in Reply shall be filed by the Appellant in Official Liquidator’s Report No.195 of 2019 within a period of 2 weeks from the date of this Order.”

2. Upon the Appellant filing an Affidavit in Reply to the Official Liquidator’s Report No.196 of 2019, the same shall be decided by the Learned Single Judge on its own merits.

3. All contentions of the parties before the Learned Single Judge are expressly kept open.”

5. The same is duly signed by the advocates for the parties as well as the Official Liquidator. The same is taken on record and marked ‘X’ for identification. In view of the same, the following order is passed.

(i) The order dated December 11, 2019 passed by the learned Single Judge in the Official Liquidator’s Report No.195 of

2019 is set aside;

- (ii) The Official Liquidator's Report No.195 of 2019 is restored to file for deciding the same on its merits;
- (iii) Liberty is granted to the appellant to filed affidavit-in-reply within a period of four weeks from today with copy to the other side;
- (iv) All contentions of both the parties are expressly kept open;
- (v) The appeal stands disposed of accordingly.
- (vi) In view of disposal of the appeal nothing survives in the Interim Application No.1 of 2020 and the same is also disposed of.

(SARANG V. KOTWAL, J.)

(K.K.TATED, J.)