

IN THE HIGH COURT OF JUDICATURE AT MADRAS

(IN INSOLVENCY)

MONDAY, THE 18TH DAY OF NOVEMBER 2019

THE HON'BLE MRS.JUSTICE PUSHPA SATHYANARAYANA

IP.No.109 OF 2013

AND

APPLN.NO.216 OF 2018

AND

APPLN.Nos.272 to 276 OF 2017

AND

APPLN.NOS.10,11,12 & 15 OF 2019

In the matter of Presidency
Towns Insolvency Act, III of
1909 and In the matter of
Easwari Enterprises & Asokan
... Debtors

I.P.NO.109 OF 2013

Utkal Steels Limited
Rep.by its Managing Director
Mr.Surendra Agarwal
Udit Nagar, Rourkela
Orissa-769 012

... Petitioning Creditor

-Versus-

1. Easwari Enterprises
P II 2nd Cross St., Turnbolls Road
Nandanam, Chennai-600 035

2. Mr.Asokan
Managing Parter-Easwari Enterprises
P II 2nd Corss St., Turnbolls Road
Nandanam, Chennai-600 035

... Debtors

Insolvency Petition praying that this Hon'ble court
be pleased to (a) adjudicate the debtors as Insolvents (b)
to direct the business of the debtors be vested with
Official Assignee of Madras for the benefit of the general
body of creditors of the debtors (c) to order that the
costs of this petition be paid by the Official Assignee of

Petitioning Creditor.

Appln.No.216 of 2018

Dr.S.Chandrakleha

Rep.by POA,

Dr.Velusamy,

13, 1st Main Road, Kasturibai Nagar,
Adyar, Chennai 600 020.

... Applicant/3rd Party

-Versus-

1.The Official Assignee,
High Court, Madras

... Applicant

2.Utkal Steels Limited
Rep.by its Managing Director
Mr.Surendra Agarwal
Udit Nagar, Rourkela
Orissa-769 012.

3. Easwari Enterprises
P II 2nd Cross St., Turnbolls Road
Nandanam, Chennai-600 035

4. Asokan
Managing Parter-Easwari Enterprises
P II 2nd Corss St., Turnbolls Road
Nandanam, Chennai-600 035 ... Respondents

Application No.216 of 2018 praying that this Hon'ble Court be pleased to pass an order to release the property morefully described in the schedule to the Judges Summons from administration of the Estate by the Official assignee in the Insolvency Petition.

Appln.NoS.272 to 276 of 2017

The Official Assignee,
High Court, Madras

... Applicant

-Versus-

1.Utkal Steels Limited
Rep.by its Managing Director
Mr.Surendra Agarwal
Udit Nagar, Rourkela
Orissa-769 012

...1st Respondent/
Petitioning Creditor

2. Easwari Enterprises
P II 2nd Cross St., Turnbolls Road
Nandanam, Chennai-600 035

... 2nd Respondent/1st Insolvent

3. Asokan
 Managing Parter-Easwari Enterprises
 P II 2nd Corss St., Turnbolls Road
 Nandanam, Chennai-600 035
 ... 3rd Respondent/2nd Insolvent
4. Dr.S.Chandralekha
 W/o.Dr.Velusamy,
 13, 1st Main Road, Kasturibai Nagar,
 Adyar, Chennai 600 020. ... Purchaser/4th Respondent

Application No.272 of 2017 praying that this Hon'ble Court be pleased to declare that the sale deed executed by the insolvent in favour of the 4th respondent Dr.S.Chandralekha in Document No.1518 of 2015 on the file of Sub Registrar, Neelankarai shall be void against the Official Assignee by setting aside the sale and all subsequent sale, if any.

Application No.273 of 2017 praying that this Hon'ble Court be pleased to grant a warrant of seizure in favour of the Official Assignee to seize the property from the custody and possession of 4th respondent herein or any other person and with a view to such seizure to break open the doors of the said building of the schedule mentioned property with a further direction to the area police officer to render necessary assistance for such seizure in case of necessity.

Application No.274 of 2017 praying that this Hon'ble Court be pleased to direct the 4th respondent to deliver all the title deeds such as Document No.1518 of 2015 dated 27.02.2015 and other related parent documents on the file of Sub Registrar, Neelankarai from their possession relating to the proprty to the Official Assignee.

Application No.275 of 2017 praying that this Hon'ble Court be pleased to permit the Official Assignee to sell the schedule mentioned property in public auction.

Application No.276 of 2017 praying that this Hon'ble Court be pleased to grant an interim injunction restraining the 4th respondent from alienating the Schedule mentioned property till the disposal of this Application.

SCHEDULE OF PROPERTY

(APPLN.NOS.216/2018 & APPLN.272 TO 276/2017)

All that piece and parcel of land of an extent of 4.357 grounds bearing Plot No.4, comprised in survey No.12/3C(part) situate at No.4/211 (part) M.G.R.Road, Palavakkam Village, Sholinganallur Taluk, Kancheepuram District bounded on the

North by : Land in survey No.11 (part)

South by : Villa No.5 and Service area

East by : Land in Survey No.12 (part)

West by : Villa No.3 and Service area

Together with the 0.384 grounds (to about 921.6 square feet) undivided share in the road measuring 2.92 grounds and 0.0573 grounds (to about 137.52 square feet) undivided share in the service area measuring 0.44 grounds, said areas comprised in parts of survey Nos. 12/3B and 12/3C which is part of the larger land bearing old Plot Nos.9 and 10, comprised in old survey Nos.12/D (part) (later 12/3A3) 12/E (part) New survey Nos.12/3B and 12/3C, situated at No.4/211, M.G.R.Road, Palavakkam together with

a residential Building / Villa having a plinth area measuring to an extent of 7,900 square feet with all fixtures and fittings of electrical, plumbing and sanitation etc., situated within the Registration District of Chennai South and the Registration sub-district of Neelankarai.

Appln.No.10 of 2019

United Bank of India,
SAM Branch, Rep.by Chief manager,
No.27, Whites Road,
Chennai - 14. ... Applicant/Proposed 5th Respondent

-Versus-

1.Dr.S.Chandralekha
Rep.by POA,
Dr.Velusamy,
13, 1st Main Road, Kasturibai Nagar,
Adyar, Chennai 600 020. ... 1st Respondent/ Applicant

2.The Official Assignee,
High Court, Madras ... 2nd Respondent/1st Respondent

3.Utkal Steels Limited
Rep.by its Managing Director
Mr.Surendra Agarwal
Udit Nagar, Rourkela
Orissa-769 012. ... 3rd Respondent/Petitioning Creditor

4. Easwari Enterprises
P II 2nd Cross St., Turnbulls Road
Nandanam, Chennai-600 035

5. Asokan
Managing Parter-Easwari Enterprises
P II 2nd Corss St., Turnbulls Road
Nandanam, Chennai-600 035 ... Respondents 4 & 5/Debtors

Application No.10 of 2019 praying that this Hon'ble Court be pleased to implead the applicant/proposed 5th respondent as 5th respondent in Application bearing No.216

Appln.No.11 of 2019

United Bank of India,
 SAM Branch, Rep.by Chief Manager,
 No.27, Whites Road,
 Chennai - 14. ... Applicant/Proposed 5th Respondent

-Versus-

- 1.The Official Assignee,
 High Court, Madras ... 1st Respondent/1st Applicant
- 2.Utkal Steels Limited
 Rep.by its Managing Director
 Mr.Surendra Agarwal
 Udit Nagar, Rourkela
 Orissa-769 012. ... 2nd Respondent/Petitioning Creditor
3. Easwari Enterprises
 P II 2nd Cross St., Turnbolls Road
 Nandanam, Chennai-600 035
4. Asokan
 Managing Parter-Easwari Enterprises
 P II 2nd Corss St., Turnbolls Road
 Nandanam, Chennai-600 035 ... Respondents 3 & 4/Debtors
- 5.Dr.S.Chandrakleha
 Rep.by POA,
 Dr.Velusamy,
 13, 1st Main Road, Kasturibai Nagar,
 Adyar, Chennai 600 020. ... 5th Respondent/4th Respondent

Application No.11 of 2019 praying that this Hon'ble Court be pleased to implead the applicant/proposed 6th respondent as 6th respondent in Application bearing No.272 of 2017 on the file of this Hon'ble Court.

Appln.No.12 of 2019

United Bank of India,
 SAM Branch, Rep.by Chief Manager,
 No.27, Whites Road,
 Chennai - 14. ... Applicant/Proposed 5th Respondent

-Versus-

- 1.The Official Assignee,
High Court, Madras ... 1st Respondent/1st Applicant
- 2.Utkal Steels Limited
Rep.by its Managing Director
Mr.Surendra Agarwal
Udit Nagar, Rourkela
Orissa-769 012.
... 2nd Respondent/Petitioning Creditor
3. Easwari Enterprises
P II 2nd Cross St., Turnbulls Road
Nandanam, Chennai-600 035
4. Asokan
Managing Partner-Easwari Enterprises
P II 2nd Corss St., Turnbulls Road
Nandanam, Chennai-600 035 Respondents 3 & 4/Debtors
- 5.Dr.S.Chandralekha
Rep.by POA,
Dr.Velusamy,
13, 1st Main Road, Kasturibai Nagar,
Adyar, Chennai 600 020. ... 5th Respondent/4th Respondent

Application No.12 of 2019 praying that this Hon'ble Court be pleased to implead the applicant/proposed 6th respondent as 6th respondent in Application bearing No.275 of 2017 on the file of this Hon'ble Court.

Appln.No.15 of 2019

United Bank of India,
SAM Branch, Rep.by Chief manager,
No.27, Whites Road,
Chennai - 14. ... Applicant/Proposed 5th Respondent
-Versus-

- 1.The Official Assignee,
High Court, Madras ... 1st Respondent
- 2.Utkal Steels Limited
Rep.by its Managing Director
Mr.Surendra Agarwal
Udit Nagar, Rourkela
Orissa-769 012. ... 2nd Respondent/Petitioning Creditor
3. Easwari Enterprises

P II 2nd Cross St., Turnbulls Road
Nandanam, Chennai-600 035

4. Asokan
Managing Parter-Easwari Enterprises
P II 2nd Corss St., Turnbulls Road
Nandanam, Chennai-600 035 ... Respondents 3 & 4/Debtors

Application No.15 of 2019 praying that this Hon'ble Court be pleased to set aside the order dt.11.01.2019 made in Claim No.249 of 2018, admit the said claim of the applicant and pass suitable orders in the circumstances of the case.

The above applications coming on this day before this court for hearing in the presence of Mr.C.Ramesh, advocate for the applicant/3rd party in Appln.No.216/2018 and for 4th respondent in Appln.Nos.272 to 276 of 2017 and for 1st respondent in Appln.No.10 of 2019, 5th respondent in Appln.No.11 & 12 of 2019; the Deputy Official Assignee for the Official Assignee, the 1st respondent in Appln.No.216/2018 and the applicant in Appln.Nos.272 to 276 of 2017 and 2nd respondent in Appln.No.10 of 2019, 1st respondent in 11,12 & 15 of 2019 and Mr.R.Subramanian, advocate for the 2nd Respondent/Petitioning Creditor in Appln.No.216/2018 and 1st Respondent/petitioning creditor in Appln.Nos.272 to 276 of 2017 and for 3rd respondent/petitioning Creditor in Appln.No.10 of 2019, 2nd respondent in Appln.Nos.11,12 & 15 of 2019 and Mr.F.B.Benjamin George, Advocate for the Applicant in Appln.Nos.10, 11 12 & 15 of 2019 and Mr.Om Prakash, Senior Counsel herein; and the judges Summon and affidavit of

Dr.Velusamy, filed in Appln.No.216 of 2018, M.Ravishankar filed in Appln.Nos.10,11,12 & 15 of 2019; and the Report of the Official Assignee filed in Appln.Nos.272 to 276 of 2017 and

THE COURT MADE THE FOLLOWING ORDER :

After some deliberations, this Court, in the presence of the learned Deputy Official Assignee, Mr.C.Ramesh, the learned counsel for the purchaser, Mr.F.B.Benjamin George, learned counsel for the United Bank of India, Mr.R.Subramanian, learned counsel for the petitioning creditor, refers the matter to the Tamil Nadu Mediation and Conciliation Centre, High Court, Madras. Mr.Om Prakash, learned Senior Counsel, who is present in the Court, has agreed to be the Mediator.

2. Accordingly, all the parties with respective counsels would appear before Mr.Om Prakash, learned senior counsel on 22.11.2019 or any subsequent dates that may be fixed by him and revert to this Court on 28.11.2019.

3. Post the matter on 28.11.2019.

WITNESS, THE HON'BLE THIRU AMRESHWAR PRATAP SAHI, CHIEF JUSTICE, HIGH COURT AT MADRAS, AFORESAID THIS THE 18TH DAY OF NOVEMBER 2019.

SD/-

ASSISTANT REGISTRAR

Original Side - I

//CERTIFIED TO BE TRUE COPY//

DATED THIS THE DAY OF 2019

MANAGER
INSOLVENCY OFFICE

cns.20.11.2019

HIGH COURT, MADRAS

I.P.NO.109 OF 2013

AND

APPLN.NO.216 OF 2018

AND

APPLN.Nos.272 to 276 OF 2017

AND

APPLN.NOS.10,11,12 & 15/2019

THE HON'BLE MRS.JUSTICE

PUSHPA SATHYANARAYANA

ORDER DATED: 18.11.2019

FOR APPROVAL: 20/11/2019

APPROVED ON : 20/11/2019

COPY TO:-

सत्यमेव जयते

1.THE OFFICIAL ASSIGNEE
HIGH COURT, MADRAS.

2.THE SECTION OFFICER,
TAMILNADU MEDIATION AND
CONCILIATION CENTRE,
HIGH COURT, MADRAS.

3.MR.OM PRAKASH
SENIOR COUNSEL,
NO.320, THAMBU CHETTY ST.,
PARRYS, CHENNAI 600 001.

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