

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED:20.11.2020

CORAM:

THE HONOURABLE Mr.JUSTICE M.SUNDAR

Company Application No.283 of 2020
in
Company Application No.14 of 2020
&
C.P.No.207 of 2003

The Assistant Provident Fund Commissioner cum Recovery Officer
Employees Provident Fund Organisation
PB No.588, Sree Complex, 'D' Block
18, Madurai Road, Trichirappalli – 620 008 ... Applicant
/Proposed Respondent

Vs.

M/s.Phoenix ARC Private Ltd.,
Phoenix ARF Scheme-3
5th Floor, Dani Corporate Park
No.158, C.S.T.Road, Kalina, Santacruz (B)
Mumbai – 400 098

The Official Liquidator
Office of the Official Liquidator
Madras High Court
Chennai – 600 001
as a liquidator of
Sree Uma Parameswari Mills Limited ... Respondents

Company Application filed under Order XIV Rule 8 of Original Side Rules, 9, 11(b) and 19 of the Company Court Rules, 1989 to permit the applicant to implead the Assistant Provident Fund Commissioner cum Recovery Officer, Employees Provident Fund Organisation, PB No.588, Sree Complex, 'D' Block, 18, Madurai Road, Trichirappalli – 620 008 in Comp.A.No.14/2020 in C.P.No.207 of 2003 as proposed respondent and necessary party.

For Petitioner : Mr.M.Palanimuthu

For Respondents : Mr.Palanielayaraj Kumar for R1

Mr.Bavisetty Sridhar

Deputy Official Liquidator for R2

ORDER

Mr.M.Palanimuthu, learned counsel on record for applicant, Mr.Palanielayaraj Kumar of M/s.Ramalingm Associates on behalf of the first respondent (ARC), Mr.Bavisetty Sridhar, learned Deputy Official Liquidator ('Deputy OL' for the sake of brevity) on behalf of the second respondent Official Liquidator are before me in this web-hearing on a video-conferencing platform.

2. 'Shree Uma Parameswari Mills Limited' (hereinafter 'said company' for the sake of brevity) is the company which has gone into liquidation in the captioned main Company Petition.

3. This Court is informed that the Trade Union representing the workmen of said company has already been impleaded as second respondent in Comp.A.No.14 of 2020. In this view of the matter, learned counsel for applicant requests that the prayer may be treated as one seeking impleadment of the applicant in captioned application as third respondent in Comp.A.No.14 of 2020. Under the normal circumstances, this Court would not have entertained such a plea, but as the matter pertains to Provident Fund of employees and as there is no serious contest with regard to the impleadment prayer, this Court treats the captioned application as one seeking impleadment of applicant as third respondent in Comp.A.No.14 of 2020. In the hearing today, learned counsel for ARC submitted that the averments and allegations in the affidavit filed in support of captioned application may be left open and impleadment being ordered may not please be construed as averments and allegations being accepted. In other words, averments and allegations contained in the affidavit filed in support of captioned

application are left open and this Court does not express any opinion on the same in this order. It is left open to be agitated in further proceedings. The say of learned Deputy OL is no different.

4. This Court is informed that workmen union, which is the second respondent in Comp.A.No.14 of 2020 is also not opposing the impleadment prayer.

5. In the light of the trajectory which this matter has taken, making it clear that this order will not serve as a precedent as OL is trustee qua said company and its assets, applicant the Assistant Provident Fund Commissioner cum Recovery Officer, Employees Provident Fund Organisation is directed to be impleaded as third respondent in Comp.A.No.14 of 2020 leaving open all averments and allegations in the affidavit filed in support of captioned application. There shall be no order as to costs.

Applicant to carry out necessary and consequential amendments within a fortnight and serve copies on all concerned within another fortnight therefrom.

20.11.2020

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M.SUNDAR.J.,

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