

IN THE HIGH COURT OF BOMBAY AT GOA

COMPANY APPLICATION NO.81 OF 2015

IN

COMPANY PETITION NO. 19 OF 2004

VISHWA KUTUMB.

... Applicant.

VS

HIGH PACK PRIVATE
LIMITED (IN LIQUIDATION)
THROUGH OFFICIAL LIQUIDATOR

... Respondent.

Ms. Amira Razaq, Standing Counsel for the Applicant.

Mr. Nitin Chowdhari, Advocate, for Respondent No.6.

Coram : M.S. SONAK, J.

Date : 4th March, 2021

P.C.:

Heard Ms. Razaq for the Official Liquidator and Mr. Chaudhary for Respondent No.6. Mr. Chowdhari points out that Respondent No.6 Shri Dilip Vedu Patil is present in the Court.

2. By this Company Application No.81 of 2015 in Company Petition No.19 of 2004, the Official Liquidator seeks the following directions:-

“a) direct the ex-directors of the company in Liquidation to file the Statement of Affairs under Section 454 of the Companies Act, 1956 without further delay.

b) direct the ex-directors to handover peaceful possession of the movable and immovable properties of the company to Official Liquidator under section 456 of the companies act, 1956.

c) extend the time for filing Preliminary Report of the Official Liquidator until receipt of Statement of Affairs.

d) may kindly take on record amount of Rs.15000/- deposited by the Central Government to the Official Liquidator.

e) pass any other order or orders the Hon'ble Court may deem fit and proper.”

3. Several orders have been made in this matter, but the progress is virtually retarded. Finally on 06.03.2020 this Court made the following order:-

“Heard Ms. Razaq, learned counsel for the Official Liquidator and Mr. Chowdhari, learned counsel for Respondent No.6.

2. Mr. Chowdhari, learned counsel for Respondent No.6 on the basis of instructions from Dilip Vedu Patil-Respondent No.6 who is present in the Court says that an affidavit will be filed within two weeks disclosing whatever information the Respondent No.6 has in relation to High Pack Private Limited (in liquidation). Copy of such affidavit to be furnished to the learned counsel for the Official Liquidator in advance. The matter is now posted for further consideration on 3rd April, 2020.

3. The Respondent No.6 is directed to disclose in his affidavit the details of other ex-directors, including in particular Ramesh H. Sonpal, Sameer R. Sonpal, Bhupesh R. Sonpal and Dhruv V. Thakkar.”

4. The aforesaid order was made because Dilip Vedu Patil was the

only ex-director who responded to the notice.

5. In pursuance of the order dated 06.03.2020, Dilip Vedu Patil, Ex-Director has filed his additional affidavit. Paragraphs 3 and 4 of this additional affidavit reads as follows:-

“3. I say and submit that, in compliance with the directions issued by this Hon'ble Court vide Para No. 3 of the order dtd. 06/03/2020 passed in the above mentioned case, on 12/03/2020, the deponent had been to the office of the Debts Recovery Tribunal-1, Mumbai and submitted an application for the certified copies of the documents relating to (i) the service of notice of the said proceedings to the Respondents therein on the address mentioned against their name in the title clause; and (ii) the appearance of the Respondents in the Original Application No. 156/2007 pending adjudication before the said Tribunal, and the roznama of the said proceedings, and accordingly, on 16/03/2020, the deponent received the certified copies of the said documents and became aware of the addresses of the persons who have caused appearance therein. Hereto annexed and marked at EXHIBIT-R-I COLLY are the copies of the said documents.

4. I say and submit that, in view of the said information, the deponent contacted/met with Mr. Nimesh Anvind Sonpal, residing at 51, Prem Court, 5, Peddar Road, Mumbai - 400024, who is the brother-in-law of Mr. Dhruv V. Thakkar, and through him, the deponent gained knowledge that, (i) Mr. Dhruv V. Thakkar and Mr. Ramesh H. Sonpal and are no more; (ii) Mrs. Rajashree w/o Dhruv Thakkar (i.e. sister of Nimesh Arvind Sonpal) is residing at the 51, Prem Court, 5, Peddar Road, Mumbai - 400024, which address is also given in the Original Application and/or the Misc. Applications filed therein referred to supra, and (iii) Mr. Sameer R. Sonpal and Mr. Bhupesh R. Sonpal

are presently residing in Rajkot, Gujarat, however, despite much persuasion, their exact address was not made known to the deponent, but, the deponent was provided the contact number - 9408664933 to be of Mr. Sameer R. Sonpal. Later on, the deponent was able to establish contact with Mr. Sameer R. Sonpal on the said number and the last conversation took place through Whats App call on 08/02/2021. Besides, the deponent was also provided with the contact number of Mr. Bhupesh R. Sonpal, however, due to the change of the mobile phone handset, the deponent lost the contact number Mr. Bhupesh R. Sonpal.”

6. From the affidavit as also the submissions made by Mr. Chowdhari the learned Counsel appearing for the Ex-Director, it does appear that the Ex-Director has no further information about the affairs of the company in winding up. The affidavit indicates that he has made efforts to obtain information and whatever information that was possible to obtain has been disclosed in the additional affidavit.

7. Thereafter, it is for the Official Liquidator to proceed in accordance with law so that the winding up proceedings are concluded expeditiously. It is expected that the Official Liquidator makes genuine efforts in this direction rather than simply plead helplessness at every step. For the present, the time for filing preliminary report can be extended by six months. Similarly, the amount deposited by the Central Government is also taken on record. No further directions can be passed in terms of prayer clauses (a) and (b) of the report.

8. The Official Liquidator's report is disposed off and Shri Dilip Vedu Patil the Ex-Director is exempted from appearing in this matter further. Despite such exemption, it is expected that if Mr. Dilip Vedu Patil acquires any information about the affairs of the company, then, he will supply such information to the Official Liquidator at the earliest.

9. Mr. Chowdhari, learned Counsel for Mr. Patil on instructions from Mr. Patil states that Mr. Patil is ready to cooperate with the Official Liquidator and will do his best to assist the Official Liquidator. This statement is accepted and appreciated.

10. The Company Application No.81 of 2015 is disposed off. However, the disposal of this application does not mean that any of the statutory requirements are waived. Therefore, liberty is granted to the Official Liquidator to take necessary steps and if necessary re-file appropriate applications.

M.S. SONAK, J.

jfd/-