

Santosh

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

**INTERIM APPLICATION NO. 2187 OF 2021
IN
COMPANY PETITION NO. 756 OF 2010**

SANTOSH
SUBHASH
KULKARNI

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Date: 2022.09.16
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JM Financial Asset Reconstruction
Company Ltd.

...Applicant

In the matter between

Export Import Bank of India

...Petitioner

Versus

The Official Liquidator of M/s. GOL
Offshore Ltd.

...Respondent

Mr. Charles De Souza, a/w Nikhil Rajani and Ms. Jyoti, i/b
M/s. V. Deshpande & Co., for the Applicant.
Mr. Aditya Pimple, for the Official Liquidator.

CORAM: N. J. JAMADAR, J.

DATED : 14th SEPTEMBER, 2022

PC:-

1. Heard Mr. De Souza, the learned Counsel for the applicant
and Mr. Pimple, the learned Official Liquidator.

2. The applicant, who claims to be a Secured Creditor, has
preferred this application for the following reliefs:

“(a) That this Hon’ble Court be pleased to order and direct the Official Liquidator attached to this Hon’ble Court, to disburse a sum of Rs.5,65,35,385/- (Rupees Five Crore Sixty Five Lacs Thirty Five Thousand Three Hundred Eighty-five only) to the applicant towards reimbursement of expenses incurred towards manning, maintaining and protecting two vessels of the borrower company in Liqn viz. MV Malaviya 18 and MV Malaviya 16 out of sale proceeds realized and lying deposited with the respondent.

(b) That this Hon’ble Court be pleased to order and direct the Official Liquidator attached to this Hon’ble Court, to distribute the balance sale proceeds (after deducting the

amount to be reimbursed to the applicant) in priority to the other creditors of the Company (in Liquidation) and after keeping the proportionate share of workmen aside in accordance with the provisions of Section 529A of the Companies Act, 1956.”

3. An affidavit-in-reply is filed on behalf of the Official Liquidator.

4. An additional affidavit is also filed on behalf of the applicant. In the additional affidavit, in addition to the prayer for reimbursement of expenses of Rs.5,65,35,385/- incurred towards manning, maintaining and protecting the two vessels of the company in liquidation namely MV Malavika 18 and MV Malavika 16, the applicant asserted that the balance amount be allowed to be distributed in priority to the other creditors of the company in liquidation, after keeping the proportionate shares of workmen aside in accordance with the provisions of Section 529A of the Companies Act, 1956.

5. Today, Mr. De Souza, on instructions, submits that the applicant restricts the prayer in the instant application to prayer Clause (a), (extracted above) only and the applicant is willing to stake its claim to the balance proceeds in accordance with the provisions contained in Section 529 and 529A of the Companies Act, 1956.

6. The statement made on behalf of the applicant that it be treated as a Secured Creditor, who has relinquished his security, as regards the balance proceed is accepted.
7. Mr. Pimple submits that in view of the aforesaid statement on behalf of the applicant, there can be no objection to grant the application to the extent of prayer Clause (a) only.
8. Hence, the application stands allowed in terms of prayer Clause (a), extracted above.
9. The disbursal of the amount mentioned in prayer Clause (a) shall be subject to the verification of the documents and record by the Official Liquidator.
10. The said exercise shall be completed by the Official Liquidator within a period of four weeks.
11. The application stands disposed.

[N. J. JAMADAR, J.]