

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
INTERIM APPLICATION (L) NO.21518 OF 2022
IN
COMPANY PETITION NO.385 OF 2002**

M/s. Tatanagar Co-op. Hsg. Soc. Ltd. ... Applicant
and
Board of Industrial and Finance Restructure ... Petitioner
Versus
The Official Liquidator of M/s. Swadeshi
Mills Co. Ltd. and Ors. ... Respondents

**WITH
OFFICIAL LIQUIDATOR'S REPORT NO.101 OF 2022
IN
COMPANY PETITION NO.385 OF 2002**

Mr. Rahul Singh with Ms. Pranali Raut, Ms. Varsha Salunkhe i/by Mr. Prashant Patnaik, for Applicant.
Mr. Aditya Pimple, for Official Liquidator.
Ms. Farzeen C. Pardiwalla i/by Ms. Anvi Arsiwala, for Respondent No.2.
Mr. Shehzad A.K.Najam-es-sani i/by Maneksha and Sethna, for Respondent No.3.
Ms. Shilpa Redkar for MCGM.

CORAM: N.J.JAMADAR, J.

DATE: 12th OCTOBER, 2022

P.C.:

1. Heard the learned Counsel for the parties.
2. The learned Counsel for the Applicant, at present, restricts the prayer in the Interim Application to prayer clause (a) which reads as under :

“(a) The Hon’ble Court be pleased to order and direct the learned Official Liquidator to comply with the orders dated 02.01.2020 passed by this Hon’ble Court in Company Application No.342 of 2013 within a stipulated time limit as deem fit and proper in the interest of justice;”

3. In paragraph No.12 of the order dated 02.01.2020, of which the Applicant seeks implementation, reads as under :

“12. The Official Liquidator is directed to submit a report after considering the subsequent events and after considering the effect of the provisions of D.C.Regulation 2034 and shall seek further directions from this Court about the mode and manner of disposal of the mill land. The Official Liquidator is directed to file the report within three months from today. A copy thereof shall be served upon the applicants as well as the secured creditors and MHADA. Further directions would be issued by this Court after hearing all the parties.”

4. The Official Liquidator has taken out Official Liquidator's Report No.101 of 2022 seeking inter alia the following directions :

“(a) In view of this, whether this Hon'ble Court may be pleased to permit the Official Liquidator to request M/s. Shetgiri and Associates, Panel Valuer appointed in the subject matter, to consider the effect of the DCPR, regulations 2034, and to submit the valuation report to enable the Official Liquidator to proceed further in the matter.

(b) Whether this Hon'ble Court may be pleased to permit the Official Liquidator to make payment of professional fees of M/s. Shetgiri and Associates, valuer amounting to Rs.3,83,500/- as per the invoice and to make further payment as per the invoice to be raised by M/s. Shetgiri and Associates out of fund lying to the credit of company (in liqn.)”

5. The learned Counsel for the Official Liquidator submits that afresh valuation of the property of the company in liquidation is warranted as the Development Control Regulations 2034 (DCR 2034) bear upon the use of the mill lands which affects the value of the property of the company in liquidation. It was

further submitted that there is no clarity as to whether the relevant parts of the DCR 2034 have been brought in force. Attention of the Court is invited to the Notification dated 13th April, 2022, whereby the amended Development Control Regulations have been brought into force after one month of the publication of the said Notification in the Maharashtra Government Gazette.

6. The learned Counsel for the MCGM seeks time to take instructions about the date of the enforcement of the DCR 2034.

7. In any event, there does not seem to be any impediment in appointing the panel valuer to carry out afresh valuation of the property of the company in liquidation. Even the learned Counsel for the Applicant submits that the Applicant has no objection to the said course of action. Panel Valuer would, of course, consider the effect of DCR 2034 in ascertaining the value of the property of the company in liquidation.

8. Hence, the Official Liquidator's Report stands allowed in terms of prayer clauses (a) and (b) reproduced above.

9. In view of the disposal of the Official Liquidator's Report, Interim Application also stands disposed.

10. Liberty to the Official Liquidator to move the Court in the event there is any difficulty in arriving at the valuation of the property on account of any discrepancy being pointed out by the valuer appointed by the Court.

11. The Official Liquidator shall file further report no sooner the valuation report is received from the valuer.

(N.J.JAMADAR,J.)