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*Comp.A.No.225 of 2022
in C.P.No.266 of 2002*

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 01.07.2022

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THE HON'BLE MR.JUSTICE M.SUNDAR

Company Application No.225 of 2022
in
Company Petition No.266 of 2002
and
Company Petition No.266 of 2002

C.P.No.266 of 2002

The South India Surgical Company Ltd.,
No.850, Anna Salai,
Chennai-600 002.

... Petitioner

-VS-

1. Tamilnad Hospital Ltd.,
Off. Tambaram - Velachery Highway
Cheran Nagar, Chennai-601 302.
2. N.Mohan, Proprietor
M/s.Dhivyanaga Enterprises
Plot No.38, Ganapathy 2nd Street,
Avvai Nagar, Thiruvannamiyur
Chennai-41.



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3. ICICI Bank Ltd.,
No.1, Cenetoph Road,
Chennai-18. ... Respondents
- Respondents 2 and 3 are impleaded as per order
dated 01.04.2003 and 26.06.2003 in A.No.1001 of 2003

Comp.A.No.225 of 2022:

The Official Liquidator
High Court, Madras
As the Liquidator of
M/s.Tamilnad Hospital Limited (In Liquidation) .. Applicant

Prayer:

This Company Petition has been filed under Sections 433 (e) and (f) read with Sections 434 & 439 (1) of the Companies Act, 1956.

This Company Application has been preferred, under Section 481 and Section 550(1) and (2) of the Companies Act, 1956 read with Rules 9 and 11(b) of the Companies (Court) Rules, 1959, praying

(a) To take this report on record;

(b) To permit the Official Liquidator to file the final accounts along with Auditor's Certificate issued by M/s.Sarathy & Vasu Chartered Accountants appointed by the Hon'ble Court;

(c) To form an opinion that as the process of liquidation has arrived the final stage, it is just and reasonable to issue an order to



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dissolve the company under Section 481 of the Companies Act, 1956;

(d) To grant permission to transfer the balance amount lying to the credit of the company in liquidation as Undistributed Assets under Section 555(2) of the Companies Act, after meeting all the expenses in connection with the winding up proceedings of the company in liquidation, including the cost of the present application and ;

(e) To permit the Official Liquidator to dispose off books and papers of M/s.Tamilnad Hospital Limited (In liquidation) immediately after the expiry of 5 years form the date of dissolution of the company as per Section 550 (1) & (2) of the Companies Act, 1956;

(h) To pass such further or other order/s that this Hon'ble Court may deem fit and proper in the circumstances of the case;

For Applicant

in Comp.A.No.225 of 2022

:

Mr.Bavisetty Sridhar

Deputy Official Liquidator

COMMON ORDER

Captioned application has been taken out by 'Official Liquidator attached to this Company Court' [hereinafter 'OL' for the sake of convenience and clarity] *inter alia* under Sections 481 and Section 550 (1) and (2) of 'the Companies Act, 1956' [hereinafter 'said Act' for the sake of convenience and clarity] with a multi-limbed prayer which has been extracted and reproduced supra.



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2. Mr.Bavisetty Sridhar, learned 'Deputy Official Liquidator' [hereinafter 'Deputy OL' for the sake of convenience and clarity] who is before this Court on behalf of 'Official Liquidator attached to this Court' [hereinafter 'OL' for the sake of convenience and clarity] submits that a 'report of OL dated 27.06.2022' [hereinafter 'said report' for the sake of convenience and clarity] has been filed in support of the captioned application.

3. A careful perusal of said report makes it clear that 'Tamilnad Hospital Limited' [hereinafter 'said company' for the sake of convenience and clarity] has gone into liquidation and that there were SARFAESI proceedings by other secured creditors and all this has lead to a deadlock wherein OL cannot proceed and liquidate any further. Opening paragraph to paragraph No.9 of said report read as follows:



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The Official Liquidator attached with this Hon'ble Court respectfully submits as follows:-

2. That the Hon'ble High Court, Madras by order dated 24/11/2004 made in Company Petition No. 266 of 2002 wound up M/s. Tamil Nad Hospital Limited and appointed the Official Liquidator attached to this Hon'ble Court, as the liquidator of the said company with directions to take charge of all the assets and effects of the said company. A copy of the winding up order dated 24/11/2004 is enclosed as 'Annexure-A' for the kind reference of this Hon'ble Court.

3. That as per the information submitted as counter to C.A.No. 18 of 2004, ICICI Bank, the applicant to OA No.540/2001, took possession of the assets of the company in liquidation as permitted by D.R.T under SARFAESI Act, 2002 and also sold the said assets.

4. It is submitted that the ex-directors of the company in liquidation have not filed the Statement Affairs as required under section 454 of the companies Act, 1956.

5. That it is submitted that the Hon'ble Division Bench, High Court, Madras by the order dated 21.04.2005 made in W.A.No.3973/2003 in



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W.A.M.P.Nos.6518/03 & 756/2005, directed the ICICI Bank to deposit a sum of Rs.1,51,15,223/- with the Official Liquidator for disbursement to the workmen creditors of the company in liquidation.

6. That upon receipt of the amount from ICICI Bank, as permitted by this Hon'ble Court, the Official Liquidator had opened a dividend account for Rs.1,46,15,223/- for disbursement of dividend to 422 workmen creditors as first and final dividend. Further, the unpaid dividend amount of Rs.10,97,987/- was transferred under section 555 of the Companies Act,1956 to the Registrar of Companies, Tamilnadu, Chennai on 07.02.2019.

7. That the Official Liquidator submits that the funds position as on date is Rs. 8,846/-.

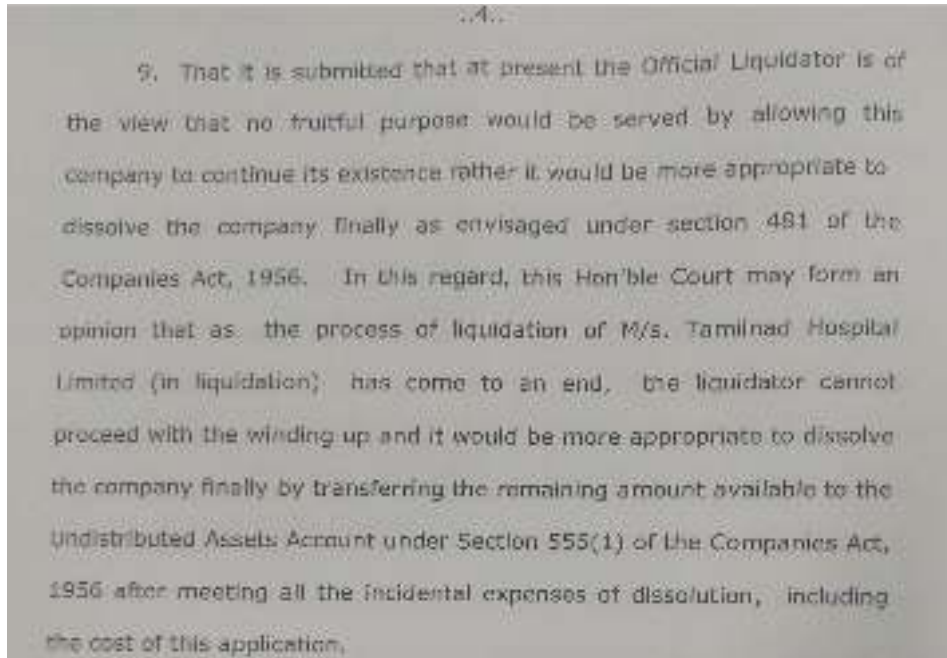
8. That it is submitted that the Official Liquidator may be permitted to file the final accounts along with auditor's certificate issued by M/s. Sarathy & Vasu, Chartered Accountants appointed by this Hon'ble Court for maintenance of Accounts of the Office of the Official Liquidator. The certified copies of the final accounts along with auditor's certificate are enclosed as "Annexure-B", for the kind perusal of this Hon'ble Court.

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4. Suffice to say that the aforementioned paragraphs are tell tale qua the trajectory which the winding up proceedings in this Company Court have taken.

5. In the light of the aforesaid narrative in said report, this Court has no hesitation in coming to the conclusion that keeping main CP pending in this Court any further will not serve anybody's interest. It will be a penny wise pound foolish exercise. In any event, multi-limbed



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prayer in the 'captioned application' [hereinafter 'dissolution application' for the sake of convenience and clarity] includes one limb of prayer which pertains to deposit of balance into the Public Account of India in 'Reserve Bank of India' ['RBI'] under Section 555 of said Act. Therefore, the interest of creditors (even if they surface at this distant point of time) will also stand protected.

6. One of the limbs of prayer in multi-limbed prayer in the captioned application i.e., limb (e) is for destruction of records in main CP in the office of OL. This Court is informed that destruction will be in accordance with Rules made by the Central Government which are traceable to sub-sections (1) and (2) of Section 550 of said Act. It is made clear that this prayer is answered in the affirmative as regards destruction of records in the office of OL. As regards the records of main CP in this Company Court are concerned, the same will be governed by digitization and destruction policy of this Court the making of which is underway.



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7. Prayer limbs (a) to (d) in dissolution application are acceded to.

Therefore, Captioned dissolution application is ordered as prayed for.

8. Therefore this Company Court comes to the conclusion that OL cannot proceed with the winding up qua said company leading to the opinion that just and reasonable circumstances for dissolution of said company exist, orders dissolution and closure of main CP which is now two decades old.

9. This Court is informed that in and by order dated 24.11.2004, said company has been ordered to be wound up and there is some doubt as to whether that would tantamount to closure of main CP. In this view of the matter, in exercise of inherent powers of this Company Court under Rule 9 of the Companies (Court) Rules, 1959, being Rules under said Act, main CP is resuscitated only to be closed vide instant order as the dissolution of said company is imperative for closure of main CP.



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M.SUNDAR, J.,

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10. Sequitur is, said company stands dissolved and OL stands discharged. This means that the captioned application is ordered in aforesaid manner and main CP is also disposed of as closed. There shall be no order as to costs.

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Index : Yes/No
Speaking/Non-speaking

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