Comp.A.Nos.319, 553 of 2022
in C.P.No.280 of 2014

SENTHILKUMAR RAMAMOORTHY, J.

The assignee of two secured creditors of the company in liquidation has presented C.A.No.319 of 2022 to direct the Official Liquidator to hand over possession of the immovable properties in respect of which the assignee asserts a charge. C.A.No.553 of 2022 is filed by an intending purchaser of the relevant property.

2. In support of this application, the applicant in C.A.No.319 of 2022 has placed on record the memorandum of deposit of title deeds dated 13.07.2010 in favour of the State Bank of Travancore and the equitable mortgage loose leaf register in favour of Federal Bank Limited. The assignment agreements dated 30.12.2015 executed by State Bank of Travancore and Federal Bank, respectively, are on record. Documents evidencing the registration of charges, including documents evidencing modification of such charges, are also on record.

3. These documents clearly evidence the creation of a charge in favour of the predecessors-in-interest of the applicant and the subsequent assignment of the debts, including the security in relation thereto, to the applicant. The requirements of Section 125 of the Companies Act, 1956 have also complied with. In these facts and circumstances, the applicant has established that it is the secured creditor in respect of these assets.

4. Since these assets are in the custody of the Official Liquidator until date, the Official Liquidator has incurred expenses towards safeguarding the assets. In the report dated 27.10.2022, the Official Liquidator has stated that the total expenditure incurred is Rs.25,18,779/-. The secured creditor is liable to pay this sum. In discharge of the liability, the secured creditor has produced a demand draft for a sum of Rs.25,18,779/- in favour of the Official Liquidator. The said demand draft has been handed over to the Official Liquidator in Court today. Therefore, there is no impediment to the handing over of these immovable assets to the applicant / secured creditor.

5. Upon taking possession of these immovable assets, the secured creditor shall apprise the Official Liquidator of all steps taken in relation to the sale of these assets, including the fixation of the reserve price. Upon completion of the sale, the secured creditor shall ascertain the workmen's portion in the secured asset in coordination with the Official Liquidator. Such workmen's portion shall be remitted to the account of the Official Liquidator before or at the same time that the secured creditor appropriates the remainder towards its dues.

6. Since the applicant in C.A.No.553 of 2022 and another prospective purchaser are desirous of participating in the auction sale process, they may do so whenever the secured creditor brings the asset for sale.

7. For reasons set out above, C.A.No.319 of 2022 is allowed by directing the Official Liquidator to handover possession of the immovable property comprising land ad measuring 39282 sq.ft. at Old No.1, New Door No.53, Anna Nedusalai (Cowl Bazzar Main Road), Cowl Bazzar, Chennai

SENTHILKUMAR RAMAMOORTHY, J.

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600 016 along with the sheds thereon. Possession shall be handed over within a period of ***two weeks*** from the date of receipt of a copy of this order. Subject to the grant of leave to the applicant, C.A.No.553 of 2022 is disposed of.

18.11.2022

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