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IN THE HIGH COURT OF BOMBAY AT GOA

COMPANY APPEAL NO. 1 OF 2022

CORPORATION BANK, PANAJI (NOW
KNOWN AS UNION BANK OF INDIA) ... APPELLANT

Vs.

AMIANITIT FIBERGLASS INDUSTRIES
INDIA PVT. LTD. (IN LIQUIDATION)
THR. OFFICIAL LIQUIDATOR & ANR. ... RESPONDENTS

Ms. Priyanka Kamat, Advocate for the Appellant.

Ms. Amira Razaq, Standing Counsel for the Official Liquidator.

Mr. Parikshit Sawant, Advocate for Respondent No. 2.

**CORAM: B.P. COLABAWALLA &
BHARAT P. DESHPANDE, JJ.**

DATED: 17th FEBRUARY 2023

ORAL ORDER: (per B.P. COLABAWALLA, J.)

1. The above Appeal is filed challenging the order passed by the learned Single Judge dated 12.03.2021. By the impugned order, Company Application No. 4/2019 filed by the Official Liquidator, seeking for disbursement of the amount due to the Workmen was allowed.

2. The learned Advocate appearing on behalf of the Appellant [Corporation Bank] submitted that the order passed by the learned Single Judge is wholly incorrect, in view of the fact that it

has ignored the report of the Enquiry Officer submitted on behalf of the Corporation Bank and which was prepared by Advocate Vijay Palekar. She submitted that after this report was submitted [along with an affidavit] to this Court, even the Official Liquidator sought to express doubts on the exercise carried out by the empanelled Chartered Accountant for determining the dues of the Workmen of the Company [in liquidation]. This was a very important factor that the learned Judge ought to have taken into consideration before passing the impugned order, was the submission. In other words, it is the argument of the Counsel that once the Official Liquidator himself was of the opinion that re-adjudication ought to be done, there was no occasion for the learned Single Judge to pass the impugned order and dispose of Company Application No. 4/2019 directing the disbursement of the amount to the Workmen.

3. We have heard the learned Advocate appearing on behalf of the Appellant. We have also perused the impugned order dated 12.03.2021. We have no hesitation in saying that this Appeal is wholly frivolous. After going through the impugned order, we find that the arguments canvassed on behalf of the Appellant are wholly without any merit. The learned Judge has expressly opined that the enquiry report submitted on behalf of the Appellant [by Advocate Vijay Palekar] is not only a self-serving report, but there

are inconsistencies in the same. According to this so-called report, at one place, it is mentioned that the dues of the Workmen are inflated to the extent of around 14.84% i.e. ₹1,10,67,563/-. However, at some other place in the report, it is suggested that the entire dues of the Workmen are only in the region of ₹1.10 crores.

4. Apart from this inconsistency in this self-serving report, the learned Single Judge has also come to the conclusion that Advocate Vijay Palekar [who had prepared the report], is not an Expert as compared to the Chartered Accountant empanelled by the Official Liquidator. The learned Single Judge, in our view, correctly came to the conclusion that the report prepared by the empanelled Chartered Accountant cannot be assailed on some extraneous material taken by Advocate Vijay Palekar. In fact, the learned Single Judge has correctly opined that the Appellant being a Nationalized Bank, should not have indulged in such an exercise simply to obstruct and delay the disbursement of the dues to the Workmen.

5. It has also been noted by the learned Single Judge that the determination process undertaken for payment of Workmen's dues was fair and after the involvement of all the stakeholders. In such circumstances, the said determination cannot be set at naught in a casual manner by producing a self-serving report on

behalf of the Appellant. The learned Single Judge has correctly opined that the report prepared by the Advocate is vague. Even insofar as the conduct of the Official Liquidator is concerned, much is left to be desired. This has been duly noted by the learned Single Judge in the impugned order. The learned Single Judge has noted that it is quite surprising that the Official Liquidator seeks to express doubts on the exercise undertaken by its empanelled Chartered Accountant on the fanciful grounds set out in the self-serving report prepared at the instance of the Appellant-Bank. In fact, the learned Single Judge has clearly opined that this is not how the Official Liquidator should deal with sensitive issues like the dues of the Workmen. It is after all this that the learned Single Judge allowed Company Application No. 4/2019.

6. As mentioned earlier, we find absolutely no infirmity in the order passed by the learned Single Judge and which is impugned before us. In our opinion, the order passed by the learned Single Judge is a well-reasoned order dealing with all the contentions canvassed by the Appellant. We do not see any reason to interfere with the same and in fact, we endorse what has been held by the learned Single Judge. In these circumstances, we find absolutely no merit in the above Appeal. The Appeal is accordingly dismissed with costs of ₹50,000/- which shall be deposited in the Registry of this Court within a period of four weeks from today. These costs

shall be added to the amounts already deposited by the Appellant-Bank in the Registry of this Court and as and when this Court orders disbursement of the amount to the Workmen, the costs shall also be disbursed to them. If the costs are not paid within the stipulated period, the same shall be recovered as arrears of land revenue.

7. This order will be digitally signed by the Private Secretary/ Personal Assistant of this Court. All concerned will act on production by fax or email of a digitally signed copy of this order.

BHARAT P. DESHPANDE, J. B.P. COLABAWALLA, J.

VAIGANKAR
ESHA SAINATH

Digitally signed by
VAIGANKAR ESHA SAINATH
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