



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
INTERIM APPLICATION (L) NO.2534 OF 2021
IN
COMPANY PETITION NO.321 OF 2016**

Mukesh Mehra	...	Applicant
versus		
State Bank of India and Ors.	...	Respondents
in the matter of		
Bhuveshwari Vyapaar Pvt. Ltd.	...	Org. Petitioner
versus		
Shri Someshwara Spun Pvt. Ltd.	...	Org. Respondent

**WITH
INTERIM APPLICATION (L) NO.13287 OF 2022
IN
COMPANY PETITION NO.321 OF 2016**

State Bank of India	...	Applicant
versus		
Official Liquidator of Shri Someshwara Spun Pvt. Ltd. and Ors.	...	Respondents
and		
Bhuveshwari Vyapaar Pvt. Ltd.	...	Org. Petitioner
versus		
Shri Someshwara Spun Pvt. Ltd.	...	Org. Respondent

**WITH
OFFICIAL LIQUIDATOR'S REPORT NO.36 OF 2021
WITH
AND OFFICIAL LIQUIDATOR'S REPORT NO.9 OF 2023**

Mr. Aseem Naphade i/by Mr. Ajit Rajgole, for Applicant in IAL 2534 of 2021 and for Respondent No.5 in IAL 13287 of 2022.

Mr. Ajinkya Kurdukar with Mr. H.A.Khan, for Applicant in IAL 13287 of 2022.

Mr. Siddharth Samantaray with Mr. Sachin Kudalkar i/by Mr. Umesh Kurund for Respondent Nos.2 and 3.

Mr. Shanay Shah, for Official Liquidator.

CORAM : **N.J.JAMADAR, J.**
RESERVED ON : **31 JULY 2023**
PRONOUNCED ON : **27 SEPTEMBER 2023**

JUDGMENT :

1. The Interim Applications and the Official Liquidator's Report No.36 of 2021 arise out of the transactions which the company (in liquidation) through its ex-director professed to have entered into apparently with the consent of the secured creditor of the company (in liquidation).
2. For the sake of convenience, the parties are referred to in the capacity in which they are arrayed in IAL 2534 of 2021.
3. Mr. Mukesh Mehra – Applicant in IAL 2534 of 2021 and the ex-director of the company (in liquidation) seeks an order under Section 457(1)(c) of the Act, 1956 permitting the sale of the property of the company in liquidation and, consequently, a direction to the Official Liquidator to execute the requisite instruments in favour of Respondent Nos.2 to 4 – prospective purchasers.
4. By filing Interim Application (L) No.13287 of 2022, the State Bank of India – Applicant – secured creditor initially sought to join ex-director in seeking a direction to the Official Liquidator to complete sale and execute instruments in favour of the prospective purchasers and allow the secured creditor to adjust the amount which was received towards the outstanding debt.
5. The Official Liquidator, in turn, took out Official Liquidator's Report

No.36 of 2021 seeking a declaration that the memorandum of understanding executed to transfer the property of the company in liquidation are null, void and bad in law, and cancellation of the said MOUs and the allied reliefs.

6. The Official Liquidator also took out Report No.9 of 2023 seeking direction to sell the assets/properties of the company in liquidation through e-auction.

7. The background facts necessary for determining the applications and the OLRs can be summarized as under :

7.1 Shri Someshwara Spun Pvt. Ltd. the company in liquidation, purchased the factory having land, building and machinery situated at Bogi, Goundernur, Tasar Patti Village, Kural Kuttai Road, Udumalpet, Kippur District (Udumalpet Property).

7.2 The company in liquidation ran a spinning mill at the Udumalpet property. The company in liquidation availed financial facilities from Respondent No.1 – SBI by mortgating the land and building at Udumalpet property and hypothecating the plant and machinery.

7.3 The company in liquidation also obtained a lease of factory situated at Silvassa and the plant and machinery was installed therein. The Plant and Machinery at Silvassa (Silvassa property) was also hypothecated by the company in liquidation in favour of Respondent No.1 to avail financial facilities.

7.4 Respondent No.1 classified Shri Someshwara Spun Pvt. Ltd. as NPA.

Notice under Section 13(2) of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (SARFAESI Act) was issued by Respondent No.1 on 18 November 2014 calling upon Shri Someshwara Spun Pvt. Ltd., to pay a sum of Rs.19,55,86,951/-.

7.5 Eventually, on 6 October 2015 Bhuveshwari Vyapaar Pvt. Ltd. - Respondent No.5 filed a Company Petition No.321 of 2016. The Petition was admitted on 5 February 2018. On 23 August 2018, this Court passed an order to wind up Shri Someshwara Spun Pvt. Ltd., the company in liquidation.

7.6 Mr. Mukesh Mehra – the Applicant in IAL 2534 of 2021 claims to be ex-director of the company in liquidation. It is the claim of the Applicant that the Respondent No.1 – secured creditor obtained a valuation report in respect of Udumalpet property as well as Plant and machinery at Silvassa. Attempts made by Respondent No.1 to sell the property in the months of July 2019 and August 2020, did not materialize.

7.7 In the meanwhile, Respondent No.1 introduced OTS Scheme (SBI OTS 2020). Respondent No.1 addressed a letter on 17 October 2020 apprising the company in liquidation about the said OTS Scheme, the eligibility of the company in liquidation to avail the same and the offer of Rs.5,05,81,963/- as against the outstanding dues of Rs.18,34,54,245/- as of 31 March 2020, as the OTS Value, along with a further offer 15% reduction on the said value if the amount was paid within one

month from the date of sanction.

7.8 The Applicant claimed, to avail benefit of the aforesaid OTS, the Applicant scouted for the suitable buyers. Respondent No.4 evinced interest in purchasing plant and machinery at Silvassa for a consideration of Rs.80 Lakhs. Thereupon, a MOU dated 12 November 2020 came to be executed between the company in liquidation through the applicant and the Respondent No.4 and, under the said Agreement, a sum of Rs.80 Lakhs came to be deposited with the Respondent No.1 in a “no lien account”.

7.9 Respondent Nos.2 and 3 also evinced interest to purchase the land and building and the plant and machinery at Udumalpet. Accordingly, MOU came to be executed on 20 November 2020 for sell of Udumalpet property to Respondent Nos.2 and 3 for a consideration of Rs.3.50 Crores. Initially, a sum of Rs.45 Lakhs and thereafter, an amount of Rs.3,04,94,668/- came to be deposited with the Respondent No.1 in a ‘no lien account’. Respondent No.1 was, thus, holding a sum of Rs.4,29,94,786/- deposited by Respondent Nos.2 to 4.

7.10 Since the company in liquidation and the assets of company can be sold by the Official Liquidator, pursuant to the sanction of Court under Section 457(1)(c) of the Act, 1956, the applicant has preferred this application seeking permission for sale of the property and further direction to the Official Liquidator to complete sale and execute requisite instruments in favour of Respondent Nos.2 to 4 asserting that

the sales are in the interest of the company in liquidation and all other stake holders.

7.11 Upon being served with the aforesaid application, the Official Liquidator filed Official Liquidator's Report No.36 of 2021 seeking a declaration that the above referred MOUs dated 12 November 2020 and 20 November 2020 are null, void and bad in law under Section 536(2) of the Act, 1956; a direction to SBI – secured creditor to deposit all the amounts which it had received with the Official Liquidator and a direction to the secured creditor as well as the executants of the MOU to make disclosures.

7.12 The substance of the Report is that upon the admission of the winding up Petition and the consequent winding up order, any disposition of the property of the company in liquidation is void, unless otherwise ordered by the Court. In the case at hand, the applicant professed to alienate the property of the company in liquidation, though the property vests in the Official Liquidator, sans any authority in law.

7.13 When the IAL 2534 of 2021 and OLR 36 of 2021 were listed before this Court, a statement was made on behalf of SBI that it was willing to refund the amount of Rs.4,29,94,786/- to the prospective purchasers, and, thereupon, by an order dated 24 August 2022, SBI was directed to deposit the amount in this Court.

7.14 SBI – Respondent No.1 filed Application (L) No.13287 of 2022 seeking directions to the Official Liquidator to execute necessary instruments to sell the assets of the company in liquidation in favour of the prospective purchasers.

7.14 SBI also filed an Affidavit in Reply in IAL 2534 of 2021. In the said Reply, it was contended, inter alia, that the applicant had concealed the fact that the company was ordered to be wound up by this Court by an order dated 23 August 2018. SBI – Respondent No.1 became aware of the said fact only upon receipt of the communication from the Official Liquidator on 7 April 2021. It was further contended that since the MOUs are not registered and requisite stamp duty has also not been paid thereon, the MOUs executed on behalf of the company in liquidation in favour of the prospective purchasers, are ex-facie invalid and unenforceable. At the same time, SBI asserted that the court may exercise jurisdiction with a liberal approach and permit the disposition in question.

8. In view of the aforesaid apparent inconsistency in its stand, SBI was directed to make its stand clear. Eventually, an additional Affidavit came to be filed on behalf of SBI – Respondent No.1. Now categorical assertions are made in the additional Affidavit that the Respondent No.1 – SBI intends to enforce its statutory right of election as a secured creditor and chooses to enforce its security interest outside the purview of liquidation process / winding up proceedings and the applicant be directed to collect the amount directly from this Court and refund the same to the prospective purchasers.

9. The Applicant and the prospective purchasers have filed Affidavits in Reply to the aforesaid additional Affidavit of SBI contending that SBI – Respondent

No.1 having accepted the amount under OTS, being fully aware of the winding up order, and also having not withdrawn the OTS, cannot be permitted to resile from its earlier stand, especially in the face of the application preferred by the SBI – Respondent No.1 seeking validation of those transactions.

10. In the backdrop of the aforesaid facts and pleadings, I have heard Mr. Naphade, learned Counsel for the Applicant in IAL 2534 of 2021, Mr. Shanay Shah, learned Counsel for the Official Liquidator, Mr. Kurdukar, learned Counsel for the SBI and Mr. Samantray, learned Counsel for Respondent Nos.2 and 3 – prospective purchasers. The learned Counsel have taken the Court through the relevant pleadings and the documents on record.

11. Mr. Naphade, learned Counsel for the Applicant in IAL 2534 of 2021 would submit that the court ought to consider the substance of the matter. The proposed sale of the assets of the company in liquidation to avail the benefit under OTS scheme with the express consent of the secured creditor is exceedingly beneficial to the company in liquidation. As against the then outstanding liability of Rs.18,34,54,245/-, the secured creditor had agreed to accept a sum of Rs.4,29,94,786/-. It was never the intention of the applicant to sell the property behind back of the Official Liquidator. In fact, in the MOU dated 20 November 2020 in respect of Udumalpet property, there is a clear recital that the applicant would apply to the Company Court seeking permission to execute the sale through the

Official Liquidator.

12. Mr. Naphade would further urge that the consideration for which the properties of the company are proposed to be sold cannot be said to be inadequate as the valuation reports obtained by the secured creditor – SBI, indicated that the realizable value of the property at Udumalpet was Rs.2.83 Crores and that of the plant and machinery at Silvassa was Rs.1,26,90,000/-. The SBI, the only secured creditor, had been unsuccessful in selling the property of the company in liquidation.

13. In this backdrop, according to Mr. Naphade, the proposed sale can only be said to be both bona fide and for optimum consideration, and, moreover, in discharge of the huge outstanding liability of the company in liquidation to the bank at OTS value. Criticizing the approach of the Respondent No.1 – SBI – secured creditor, in taking a sommersault, Mr. Naphade would urge that the SBI, in pursuance of its offer of OTS, not only went ahead with the transaction and accepted money from the prospective purchasers, but also preferred an application in this Court seeking approval to those transactions. Thus, SBI, by its conduct, is estopped from now asserting that it opts to enforce the security.

14. Mr. Siddharth Samantaray, learned Counsel for the prospective purchasers, would submit that the claim of the SBI that it was not aware that the company was in liquidation is belied by the documents on record. Inviting the attention of the Court to the minutes of the meeting held by the Official Liquidator on

31 October 2018, post winding up order wherein the Manager of the SBI had participated and made a statement that they had taken symbolic possession of the assets of the property situated at Udumalpet and plant and machinery at Silvassa, Mr. Samantaray would urge that the secured creditor being fully aware of the borrower being under liquidation had offered OTS scheme to the borrower, given express consent for the sale of the secured assets and accepted consideration under OTS. Mr. Samantaray would further urge that the SBI has not yet recalled the OTS. Therefore, SBI cannot be permitted to now resile from the said OTS.

15. Mr. Kurdukar, learned Counsel for the SBI, would urge that there can be no embargo on the statutory right of SBI, secured creditor, to opt out of the winding up proceedings and enforce its security. The ex-director of the company in liquidation had not furnished appropriate information about the company being under the liquidation. The fact that the minutes of the meeting record that the Manager of the SBI had attended the said meeting and taken a stand that the SBI had taken symbolic possession of the assets of the company in liquidation, was sought to be explained by submitting that there was lack of communication.

16. Mr. Shah, learned Counsel for the Official Liquidator, would urge that the representations made by the ex-director of the company in liquidation and on behalf of the secured creditor are of no significance. Since the MOU's have been executed, post winding up order, there can be no validation of incomplete

transactions. Mr. Shah would urge that the legal position is well nigh settled that post winding up order, no new rights can be created and no incomplete rights can be perfected. Strong reliance was placed on a Division Bench judgment of this Court in the case of **Sunita Vasudeo Warke V/s. Official Liquidator and Ors.**¹ to bolster up the aforesaid submission.

17. In order to appreciate the controversy in a correct perspective, few facts deserve to be noted. Winding Up Petition being Company Petition No.321 of 2016 was presented on 6 October 2015. An admission order was passed on 5 February 2018. Eventually, this Court allowed the Company Petition and ordered the company to be wound up on 23 August 2018. It seems, the secured creditor forwarded a letter dated 17 October 2020 to the company in liquidation and its ex-directors apprising them about the eligibility of the company in liquidation for OTS (SBI OTS 2020). In the said communication, book outstanding was shown at Rs.18,54,18,245/-. OTS amount was shown Rs.5,05,81,963/- with an additional incentive on the OTS amount of 15% on full payment within one month from the date of sanction.

18. It seems, the company in liquidation through its ex-director Mr. Mukesh Mehra – Applicant in IAL 2534 of 2021, professed to enter into a MOU on 20 November 2020 with A. Lakshmanan, Respondent No.2 to sell Udumalpet property for a consideration of Rs.3.50 Crores. Likewise, the company in liquidation entered

¹ 2013(2) Mh.L.J. 777

into a MOU with Mr. Bhavarlal Jain to sell plant and machinery at Silvassa on 12 November 2020 for a consideration of Rs.80 Lakhs. As noted above, the amounts came to be credited with the SBI and were deposited in 'no lien account'.

19. Under Section 456(1) of the Companies Act, 1956, where a winding up order has been made or where a provisional liquidator has been appointed, the liquidator or the provisional liquidator, as the case may be, shall take into his custody or under his control, all the property, effects and actionable claims to which the company is or appears to be entitled. Under sub-section (2) of Section 456, all the property and effects of the company shall be deemed to be in the custody of the Tribunal as from the date of the order for the winding up of the company. Section 457 incorporates the power of the liquidator. Clause (c) of sub-section (1) of Section 457 empowers the liquidator in winding up to sell the immovable and movable property and actionable claims of the company by public auction or private contract with the sanction of the Tribunal.

20. The provisions of Section 536 also deserve to be noted at this stage. Under Section 536(2), in the case of winding up by the Tribunal, any disposition of the property (including actionable claims of the company) and any transfer of shares in the company or alteration in the status of its members, made after the commencement of the winding up, shall unless the Tribunal otherwise orders, be void. Section 441 of the Act, prescribes the date of commencement of winding up. Under sub-section (2) of

Section 441, the winding up of a company by the Tribunal shall be deemed to commence at the time of the presentation of the Petition for the winding up.

21. In the backdrop of the aforesaid provisions, the controversy at hand needs to be determined. Evidently, an endeavour has been made by the company in liquidation through its ex-director to enter into agreements to sell the assets of the company in liquidation after the winding up order is passed. Clearly neither the company in liquidation nor ex-director has any authority to enter into such a contract for sale after the winding up order is passed. In any event, in view of the provisions contained in Section 536(2), any disposition of the property of the company made after the commencement of the winding up is void unless otherwise ordered by the Tribunal/Court.

22. Whether a case for grant of validity, or for that matter, permission under Section 457(1)(c) is made out, is the moot question.

23. Indisputably, the proposed transactions represented by the two MOU's dated 12 November 2020 and 20 November 2020 are inchoate, although the prospective purchasers have parted with the consideration. Mr. Shah, learned Counsel for the Official Liquidator was justified in canvassing a submission that after the winding up order the incomplete transactions cannot be perfected. Reliance placed on the judgment of the Division Bench of this Court in the case of Sunita Vasudeo Warke (supra), appears to be impeccable. The observations of the Division Bench of

this Court in paras 11 and 12 are instructive, and, hence, extracted below :

“11. In order that section 536(2) of the Companies Act, 1956 can be invoked by the Court to “otherwise order”, there has to be a disposition of property of the company; a disposition which has been made after the commencement of winding up proceedings. In the judgment of the **House of Lords in the Governor and Company of the Bank of Scotland v/s. Macleod and Others**² Lord Kinnear observed that the rights of competing creditors in liquidation are to be governed by the same rules as regulate the rights of creditors in a sequestrated estate under the Bankruptcy Acts. The House of Lords held that “rights in security which have been effectually completed before the liquidation must still receive the effect which the law gives to them. But the company and its liquidators are just as completely disabled by the winding up from granting new or completing imperfect rights in security as the individual bankrupt is by his bankruptcy.” (pages 317 and 318 of the Judgment in (1914) AC 311). The Law Lord noted that this indeed was the necessary effect of the Companies Act under which the estate has to be distributed amongst the creditors *pari passu* and every creditor has an equal share unless anyone has already a part of the estate in his hands, by virtue of an effectual legal right.

12. This principle was followed in the judgment of the Supreme Court in **J. K. (Bombay) Pvt. Ltd. V/s. New Kaiser-I-Hind Spinning and Weaving Co. Ltd. and Ors.**³ The Supreme Court after adverting to the judgment in the Bank of Scotland (*supra*) held as follows :

39. *It is thus well established that once a winding up order is passed the undertaking and the assets of the company pass under the control of the liquidator whose statutory duty is to realize them and to pay from out of the sale proceeds its creditors. Such creditors acquire on such order being passed the right to have the assets realized and distributed among them pari passu. No new rights can thereafter be created and no uncompleted rights can be completed, for doing so*

² (1914) AC 311

³ AIR 1970 SC 1041.

would be contrary to the creditors' right to have the proceeds of the assets distributed among them pari passu.....

In view of the judgment of the Supreme Court it is now a settled principle of law that if a transfer is not completed before an order of winding up has been passed, an application would not be maintainable before the Court for a direction to the Official Liquidator to complete the transfer. This principle necessarily follows the settled legal position that upon the passing of an order of winding up, no new rights can be created and no uncompleted rights can be completed. (emphasis supplied)

24. The Division Bench has enunciated in clear and explicit terms that if a transfer has not been completed before the winding up order has been passed, an application would not be maintainable before the Company Court for a direction to the Official Liquidator to complete the transfer, for upon the passing of an order of winding up, no new rights can be created and no uncompleted rights can be completed.

25. In the case at hand, the applicant in IAL 2534 of 2021 seeks the very prayers of directing the Official Liquidator to complete the sale and execute necessary instruments in favour of the Respondent Nos.2 to 4 – prospective purchasers, which are clearly in teeth of aforesaid proposition.

26. Mr. Naphade and Mr. Samantaray made an earnest endeavour to persuade the Court to validate the transactions entered into by the ex-director and give imprimatur to the sale of the assets of the company on the premise that the sales are overwhelmingly in the interest of the company in liquidation. The ex-director and the

prospective purchasers are required to surmount two impediments. First, the impermissibility of such a course after the winding up order. Two, the contention of the secured creditor that it opts to enforce the security interest.

27. On the first count, even if the Court proceeds on the premise that there was a completed transfer of the property, the question of exercise of the discretion to validate the transaction would arise. The thrust of the submission on behalf of the ex-director and the prospective purchasers was that the sale is for an optimum price. It would be suffice to note that this Court considered it appropriate to have the valuation of the assets of the company in liquidation from an empanelled valuer. The market value, realizable and distress sale value of the property at Udumalpet is far in excess of consideration at which the said assets are proposed to be sold to Respondent No.2 and 3 under the MOU. Likewise, the market value, realizable value and distress sale value of the plant and machinery at Silvassa far exceeds the consideration for which the said property is agreed to be sold to Respondent No.4. This factor dissuades the Court from readily acceding the submissions on behalf of the ex-director and the prospective purchasers that the proposed sale is for an optimum value.

28. Secondly, had it been a case that the secured creditor been agreeable to the proposed sale in full and final settlement of all its outstanding dues, different considerations would have come into play. The stand of the secured creditor, though a little ambivalent, that it now seeks to enforce security interest leads to a situation

where the assets of the company in liquidation would be sold, if the Court were to give its imprimatur to the transaction in question, and the company in liquidation still saddled with the undischarged debt. The Court, therefore, would not be justified in exercising the discretion which in the present scenario is fraught with the risk of the assets of the company in liquidation being disposed for an inadequate consideration and the company in liquidation still carrying the burden of debt of the secured creditor.

29. I do not find much substance in the submission on behalf of the ex-director and the prospective purchasers that the secured creditor cannot be now permitted to resile from the understanding. The Court need not delve into disputed question of fact as regards the knowledge to the secured creditor about the borrower being under liquidation. The legal position is absolutely clear.

30. In view of the provisions contained in Sections 529 and 529A of the Act, 1956, the secured creditor has two options. First, the secured creditor may relinquish the security and participate in the liquidation proceedings. Second, the secured creditor may enforce the security by standing outside the winding up proceedings. If the secured creditor opts to stand outside the winding up proceedings, he would come within the purview of Section 529A(1)(b) read with the proviso (c) appended to Section 529(1) of the Act, 1956.

31. A useful reference in this context can be made to a three Judge Bench

decision of the Supreme Court in the case of **Jitendra Nath Singh V/s. Official Liquidator and Ors.**⁴ wherein the Supreme Court expounded the import of the provisions contained in Sections 529 and 529A of the Act and culled out the principles as under :

“16.1 A secured creditor has only a charge over a particular property or asset of the company. The secured creditor has the option to either realize his security or relinquish his security. If the secured creditor relinquishes his security, like any other unsecured creditor, he is entitled to prove the debt due to him and receive dividends out of the assets of the company in the winding up proceedings. If the secured creditor opts to realize his security, he is entitled to realize his security in a proceeding other than the winding up proceeding but has to pay to the liquidator the costs of preservation of the security till he realizes the security.

16.2 Over the security of every secured creditor, a statutory charge has been created in the first limb of the proviso to clause (c) of sub- section (1) of Section 529 of the Companies Act in favour of the workmen in respect of their dues from the company and this charge is pari passu with that of the secured creditor and is to the extent of the workmen’s portion in relation to the security of any secured creditor of the company as stated in clause (c) of sub- section (3) of Section 529 of the Companies Act.

16.3 Where a secured creditor opts to realize the security then so much of the debt due to such secured creditor as could not be realized by him by virtue of the statutory charge created in favour of the workmen shall to the extent indicated in clause (c) of the proviso to sub-section (1) of Section 529 of the Companies Act rank pari passu with the workmen’s dues for the purposes of Section 529 of the Companies Act.

16.4 The workmen’s dues and where the secured creditor opts to realize his security, the debt to the secured creditor to the extent it ranks

4 (2013) 1 SCC 462

pari passu with the workmen's dues under clause (c) of the proviso to sub-section (1) of Section 529 of the Companies Act shall be paid in priority over all other dues of the company." (emphasis supplied)

32. In view of the aforesaid exposition of law, the endeavour on the part of the ex-director and the prospective purchasers to put an embargo on the statutory right of the secured creditor by pressing into service the conduct of the secured creditor, does not merit countenance. Since the principal prayer of the applicant in IAL 2534 of 2021 is of directions to the Official Liquidator to complete the transactions of sale which are inchoate, the fact that SBI had initially concurred in the said prayer (which is not in consonance with law) does not advance the cause of the ex-director and the prospective purchasers.

33. The conspectus of aforesaid discussion is that the application preferred by the ex-director being IAL 2534 of 2021 and State Bank of India being IAL No.13287 of 2022 deserve to be rejected. Official Liquidator's Report No.36 of 2021 deserves to be allowed.

34. Hence, the following order :

ORDER

(i) Interim Application (L) Nos.2534 of 2021 and 13287 of 2022 stand rejected.

(ii) Official Liquidator's Report No.36 of 2021 stands allowed to the

extent that the MOU's dated 12 November 2020 and 20 November 2020 do not bind the company in liquidation and the Official Liquidator and they stand cancelled qua the company in liquidation and the Official Liquidator.

(iii) The amount of Rs.4,29,94,781/- deposited by the SBI, along with interest accrued thereon, be returned to SBI – the secured creditor.

(iv) The SBI – secured creditor shall, in turn, return the amount which it had received from the respective Respondents – prospective purchasers along with proportionate interest which has accrued on the said amount and paid to SBI, within a period of two weeks from the receipt of the said amount from the Registry.

(v) Official Liquidator's Report No.36 of 2021 stands disposed.

(vi) Official Liquidator's Report No.9 of 2023 be listed before appropriate Bench.

(N.J.JAMADAR, J.)