

Laxmi

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION**

**OFFICIAL LIQUIDATOR'S REPORT NO. 88 OF 2022
IN
COMPANY PETITION NO. 488 OF 2015**

In the matter of Companies Act, 1 of 1956;
And
In the matter of Elder Pharmaceuticals Ltd.
(In Liquidation)

Puspasen C. Jhaveri

..Petitioner

Mr. Jehangir Jeejeebhoy *for O.L.*

Mr. Shashank Fadia *for DCB Bank Ltd.*

Mr. Shatrughan Chauhan, *Dy. O.L. is present.*

CORAM : B. P. COLABAWALLA, J
DATE : 29 MARCH 2023

P.C.

1. The above OLR is filed seeking the the following reliefs:

(a) In view of para (10) of this report, weather this Hon'ble Court be pleased to permit the Official Liquidator to break open the lock of the asset of the company situated at Plot No. 788, Indira Nagar Colony, Phase II, Dehradun, Uttarakhand and take physical possession;

(b) If prayer clause (a) is affirmative and in view of para (11) of this report, weather this hon'ble Court be pleased to permit the Official Liquidator to appoint a Security Agency from the panel of Official Liquidator for safeguarding the property of the Company (In Liquidation) situated at Plot No. 788, Indira Nagar Colony, Phase II, Dehradun, Uttarakhand;

(c) In view of para (12) of this report, weather this Hon'ble Court may be pleased to permit the Official Liquidator to appoint a valuer from the panel of Official Liquidator for preparation of inventory and valuation of the property of the Company (In Liquidation) situated at Plot No. 788, Indira Nagar Colony, Phase II, Dehradun, Uttarakhand and further permit Official Liquidator to pay his professional fees from the amount lying to the credit of Company after deduction of application taxes.

2. Mr. Fadia, the learned Advocate appearing on behalf of DCB Bank Ltd submitted that the Dehradun Pproperty, and which is the subject matter of the present OLR, is mortgaged with DCB Bank Ltd. The dues of the DCB Bank Limited have not yet been fully satisfied and as on 27th March, 2023, an amount of Rs. 5,24,637.50/- is still due and payable by the Company (in liquidation) to DCB Bank Ltd. He submitted that notwithstanding the mortgage, the said Bank has no objection if physical possession of the Dehradun property is taken over by the Official Liquidator and be sold under the directions of this Court. He, however, submitted that this should not be construed to mean that the Bank is giving up their rights as the secured creditor and would be entitled to claim the balance outstanding dues from the sale of this property, subject to the *pari pasu* charge of the workmen of the Company (in liquidation) under Section 529A of the Companies Act, 1856. In other words, this concession on behalf of the Bank should not be construed to mean

that they are standing in the winding up proceedings, was the submission.

3. Considering the fair stand taken by Mr. Fadia and accepting his submissions recorded earlier, and after perusing the above OLR, the same is allowed in terms of prayer clauses (a), (b) and (c) reproduced above.

4. For the purposes of taking physical possession of the Dehradun property, the local police station shall give all necessary assistance to the Representative of the Official Liquidator (including deputing adequate number of police personnel) to ensure compliance of this order.

5. The above OLR is disposed of in the aforesaid terms. No order as to costs.

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

[B. P. COLABAWALLA, J].