Comp.A.No.143 of 2022
in C.P.No.279 of 2016

KRISHNAN RAMASAMY, J.

This Application has been filed by the Official Liquidator under Section 446(2) and 460 (4) of the Companies Act, read with rules 9, 11(b) of the Companies (Court) Rules 1959, seeking for the following prayers:

(a) to take his report on record;

(b) to direct the respondent/debtor to pay a sum of Rs.4,86,338/- along with compound interest @ 24% p.a from the date of winding up to till date of entire settlement. (or)

to permit the Official Liquidator to value the property by engaging the service of ITCOT limited and to file necessary application to bring the property for sale in the interest of body of creditors of the company in liquidation.

(c) to direct the cost of this application do come out of the funds of the company in liquidation.

2.Learned Official Liquidator would submit that this Court vide order dated 18.10.2016 made in C.P.No.279 of 2016, appointed the Official

Liquidator as provisional Liquidator of M/s.KRM Kumaragam Chits Private Limited, with a direction to take charge of all the properties and effects to the Company in liquidation.

3.He would further submit the Ex-Directors have filed the statement of affairs of the company in liquidation along with lists of loans and advances on 27.02.2018. As per the said list, the respondent had been shown as debtor and he is liable to pay a sum of Rs.4,86,338/- to the company in liquidation. By simple mortgage deed dated 07.11.2013, the respondent availed a sum of Rs.2,00,000/- as secured loan from the company in liquidation by mortgaging a landed property and as per the simple mortgage agreement deed, in case of default, the respondent has to repay the said amount with compound interest at the rate of 24%. The said mortgage deed is enclosed as Annexure 'D'. Therefore, the learned Official Liquidator sent a demand notice on 15.03.2018 calling upon the respondent to make the payment of Rs.4,86,338/- together with interest at the rate of 18% p.a from the date of winding up to till the date of final settlement. However, the notice cover was returned with an endorsement “No such person”. Thereafter, the Official Liquidator sent a reminder notice dated 12.10.2020. The copy of the demand notice and reminder notice is enclosed as Annexure 'C'. But, till date the respondent has not come forward either to contest the matter or to make the payment. Hence, he prayed to allow the present application.

4.Notice was ordered to the respondent and the learned counsel for the respondent also entered appearance. When the matter came up for hearing on the last occasion, learned counsel appearing for the respondent sought adjournment to get instruction from his client. Therefore, the matter is adjourned to 10.02.2023. Accordingly, the matter is listed today.

5.Today, on 10.02.2023, when the matter taken up for hearing, learned counsel appearing for the respondent would submit that he could not contact his client.

6.Upon hearing and perusal of the statement of affairs filed by the Ex-directors and the demand notice sent to the respondent, it is clear that the respondent is liable to make the payment of Rs.4,86,338/- to the Official Liquidator and hence the respondent is directed to make a payment of Rs.4,86,338/- together with the interest at the rate of 24% p.a from the date of winding up to till the date of final payment, in favour of the Official Liquidator, High Court, Madras. In the event, the respondent failed to make the payment, the Official Liquidator is at liberty to engage the registered valuer from ITCOT limited to value the property and bring the property for sale and realise the amount.

7.With the above directions, this application is ordered as prayed of.

10.02.2023

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