A.No.1509 of 2023
in C.S.No.721 of 1998

R.N.MANJULA,J.

The applicant is the 160th defendant in the suit viz., the Madras Purasawalkam Hindu Janopakara Saswatha Nidhi Depositors/Association. The respondents 1 to 4/plaintiffs 2, 3 5 and 6 along with the deceased plaintiffs 1 and 4 have filed a suit in C.S.No.721 of 1998 for seeking the relief of permanent injunction restraining the defendants from convening or holding any requisition meeting or any Extraordinary General Meeting pursuant to the notice dated 24th August 1998 until normalcy is restored in the functioning of the first defendant's company.

2. During the course of the said proceedings, considering the interest of the depositors, the Commissioner has been appointed to sell the properties belonging to the first defendant and to equitably settle the amount due to the depositors. The official receiver has been appointed to manage the affairs of the first defendant. In these circumstances, some of the depositors have grouped together and formed an Association among themselves and got impleaded them as 160th defendant in the suit. Now the said 160th defendant had filed this application to direct the first defendant to restrain from

disbursing any sums to the depositors until it is made possible to distribute it in an equitable manner.

3. When the matter is taken up today, the learned counsel for the applicant submitted that the Commissioner and the receiver appointed in this case have disbursed the amounts to some of the depositors in an arbitrary manner by ignoring the interest of other depositors that would affect their interest.

4. The learned counsel for the Advocate Commissioner who is present today has submitted that distribution to all the depositors can be made only by selling assets of the first defendant. It is also learnt that the amount due to the first defendant from the borrower are also being calculated and for the small depositors who are willing to get 50% of the deposits, the amount is being disbursed to them.

5. Mr.T.Sudanthiram, who has been appointed as receiver has filed an affidavit today wherein it has been stated that because of the constant anxiety shown by some of the depositors, the functions of the receiver cannot be executed in a peaceful manner and he has also come forward to get himself

relieved from holding the post of receiver for the first defendant company. From the affidavit filed by the receiver, it is seen that efforts have been taken to disburse the amount to the small depositors who have expressed their willingness to receive 50% from and out of the amount available.

6. Even though the suit has not been filed by the depositors Association or by any other depositor, in order to give some equitable remedy to the depositors, a receiver has been appointed in accordance with the joint terms of reference filed by the plaintiffs and the Welfare Association. There are 9 assets belonging to the first defendant Nidhi, and only if all the assets are liquidated, it can be convenient for the receiver to disburse the same to all the depositors.

7. During that exercise, it could be possible for the depositors who have already received 50% to get additional distribution or the rest of the depositors to get less than 50%, depending upon the proceeds obtained by way of selling the assets. Before the said point of time, if the disbursement is started to be done, that would not serve the interest of all the depositors.

R.N.MANJULA, J.

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8. The learned Commissioner is not able to give any concrete figure as to the cash in hand in view of piecemeal payments made to the company by the defaulters. In order to avoid uncertainties, I feel the process of sale of the assets should be expedited by the Commissioner by taking appropriate steps and get the proceeds consolidated in order to make it available for disbursal to all the depositors. Until then, the learned receiver and the Commissioner can stop disbursing and approach the Court to seek further orders or clarification, whenever such situation arises and warrants.

9. With these observations, this petition is disposed of.

29.03.2023

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