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*Comp.A.No.256 of 2022
in C.P.No.255 of 2014*

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KRISHNAN RAMASAMY.J.,

This Application has been filed by the Official Liquidator seeking the following prayers:

- (a) To take this report on record;
- (b) To direct the respondent/debtor to pay a sum of Rs.12,02,615.70/- towards dues as mentioned in Para No.12 along with subsequent interest at the rate 18% p.a from 28.06.2022 to the date of full and final payment;
- (c) To permit the Official Liquidator to incur the cost of this application from and out of the funds of the Company in Provisional Liquidation.

2.Learned Official Liquidator would submit that this Court by order dated 31.07.2014 in C.P.No.255 of 2014 appointed the Official Liquidator as Provisional Liquidator of the M/s.First Leasing Company of India Limited (hereinafter referred as company in provisional liquidation) with the directions to take charge of all the assets of the said company.



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3.Learned Official Liquidator would further submit that as per the books and records of the company in provisional liquidation, the respondent herein had entered into five operating lease agreements with the company in provisional liquidation and borrowed money, out of which the tenure of the three agreements got completed prior to the appointment of Provisional Liquidator and two lease agreements dated 26.02.2010 and 21.06.2011 were active.

4.Further the Ex-directors have filed the Statement of Affairs along with the lists of borrowers, in which the respondent herein is shown as debtor for a sum of Rs.34,742/- payable by them as on the date of winding up. Therefore, the Official Liquidator has issued demand notice dated 05.03.2015 to the respondent demanding a sum of Rs.34,742/- together with interest at the rate of 18% p.a from 31.07.2014 to till the date of entire settlement. However, the respondent neither replied for the demand notice nor remitted the said amount.



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5.It was also observed from the books and records of the company in provisional liquidation that the tenure of the agreement was expired in May 2015 and there was an outstanding of Rs.1,54,250.17/-. Hence, the Official Liquidator issued a final notice on 30.12.2019 to return the asset and pay the sum of Rs.6,10,823.21/- or to retain the assets and a pay a sum of Rs.9,71,683.79/-. Though the notice served to the respondent's Corporate Office, there was no reply from them. Thereafter, the Official Liquidator issued a final notice (1) dated 30.09.2020, calling upon the respondent to return the assets and pay a sum of Rs.6,72,636.52/- or to retain the assets and pay a sum of Rs.10,33,497.10/-. The final notice (1) sent to the branch offices of the respondent was returned with an endorsement "Left". However, the respondent by e-mail dated 09.09.2020, informed the Official Liquidator that formal reply was already submitted on 24.04.2018, regarding correction to be made in the records of the company in liquidation. Thereafter, the Official Liquidator has also sent final reminder on 12.11.2020 to the respondent to make the payments. The said notice was acknowledged by the respondent but, no remittance was made till date. Hence, the present application has been filed.



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6.Despite notice served and the name of the respondent is also printed in the causelists, there was no representation on behalf of the respondent either in person or through counsel. Hence, the respondent is set *ex-parte*.

7.Upon hearing and perusal of the documents, it appears that the respondent has entered into five lease agreements with the Company in provisional liquidation and the respondent has failed to make the payment of lease rents. After verifying the books and records of the company in provisional liquidation, the Official Liquidator has sent demand notice 05.03.2015, final notices dated 30.12.2019 and 03.09.2020 and reminder final notice dated 12.11.2020, calling upon the respondent to pay the dues. However, the respondent has not come forward to make the payment. A perusal of the documents and the report filed by the learned Official Liquidator, it is clear that the respondent is liable to pay a sum of Rs.12,02,615.70/- and accordingly, the learned Official Liquidator has proved the claim before this Court.



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8.Thus, the respondent is directed to pay a sum of Rs.12,02,615.70/- towards dues along with subsequent interest at the rate of 18% p.a from 28.06.2022 to the date of full and 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.

9.With the above directions, this application is ordered as prayed for.

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