



WEB COPY



Comp.A.No.182 of 2021

in

C.P.No.370 of 2015

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 permit the Official Liquidator to call for claims from all the creditors of the company in liquidation by giving 30 days time from the date of publication of notice in News Papers to prove their debt/claim before the Official Liquidator;

(c) To permit the Official Liquidator to publish the advertisement for calling claims in one issue of English daily “The New Indian Express (in English) (Tamilnadu Edition) and in one issue of Tamil Newspaper” Dina Mani in (Tamilnadu Edition).

(d) To permit the Official Liquidator to dispense with requirement of Rule 148(2) of the Companies (Court) Rules, 1959, from the issue of individual notices to the creditors.

(e) To direct the secured creditors viz., Axis Bank Limited, RAC,



WEB.COM

Arcot Road Branch Chennai to provide the details of loan as on date of winding up and details of amount so far settled by way of sale of the assets of the company, and from the guarantor's property if any as referred in para 6, to enable this office to arrive at the percentage of proportionate share towards workmen dues.

(f) To direct the secured creditor viz., Axis Bank Limited, RAC, Arcot Plaza Branch to bear the cost of Advertisement charges and other expenses incurred in this regard.

2.Learned Official Liquidator would submit that this Court by order dated 19.10.2016 in C.P.No.370 of 2015 appointed Official Liquidator as Provisional Liquidator of the M/s.Brain Smart Media and Advertising Limited with the directions to take charge of all the properties of the said company.

3.Learned Official Liquidator would further submit that in order to ascertain the quantum of amount payable to the workmen creditors, a notice



WEB COPY

of invitation of claims has to be issued to the public to submit their claim, if any, against the company in provisional liquidation as the Ex-directors have not filed the Statement of Affairs with the Official Liquidator. That apart, the learned Official Liquidator wanted to invite the claims from secured and un-secured creditors. But, there is no fund available with the Official Liquidator, since the respondent herein has sold one of the secured asset of the company in liquidation for a sum of Rs.6.52 Crores.

4.Learned counsel appearing for the respondent Bank would submit that a sum of Rs.6.52 Crores obtained from the sale of the said property is kept in separate account. Though she filed counter affidavit making formal objection, she would submit that the Court may pass orders on merits.

5.Considering the submissions made by the learned Official Liquidator and the learned counsel appearing for the respondent, this Court is of the view that the present application has been filed seeking to permit the Official Liquidator to invite the claims from the secured and un-secured creditors. The respondent being a secured creditor sold the property of the



WEB COPY

KRISHNAN RAMASAMY.J.,

rst
company in liquidation for a sum of Rs.6.52 Crores and kept the said amount in separate account. Since the Official Liquidator has no fund to effect advertisement, the respondent has been impleaded as one of the party to the proceedings. Unless and otherwise the claims are invited by the learned Official Liquidator, even the secured creditor who sold the property for a sum of Rs.6.52 Crores cannot utilise the said amount. In the interest of the respondent and other claimants, this Court feels it would be appropriate to permit the Official Liquidator to invite the claim and the respondent shall bear all the expense of the Official Liquidator, in this regard.

6.In view of the above, this application is ordered as prayed for.

03.02.2023

rst

Comp.A.No.182 of 2021
in
C.P.No.370 of 2015