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Comp.A.No.249 of 2021

in

C.P.No.223 of 2016

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 invite claims from the creditors of the company in provisional liquidation by causing publication in “The New Indian Express”, English daily and “Dinamani”, Tamil daily, having circulation in the State of Tamilnadu,

(c) To direct Assets Reconstruction Company (India) Ltd, The respondent to remit the expenses in connection with the publication and to keep 50% total sale consideration apportioned for remittance of such amount, which is quantified by Official Liquidator upon adjudication of claims of Workmen Creditors.

(d) to permit the cost of this application do come out of the funds of the company in provisional liquidation.



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2.Learned Official Liquidator would submit that this Court by order dated 06.03.2018 in C.P.No.223 of 2016 appointed Official Liquidator as Provisional Liquidator of the M/s.Kiran Overseas Exports Ltd., 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 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.32.05 Crores.

4.Learned counsel appearing for the respondent would submit that a sum of Rs.32.05 Crores obtained from the sale consideration of the said property was not sufficient to recover the entire outstanding, which stand



approximately Rs.211.37 Crores. 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 company in liquidation for a sum of Rs.32.05 Crores. 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.32.05 Crores cannot utilise the same. 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 direct the respondent shall bear all the expense of the Official Liquidator, in this regard.



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

03.02.2023

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