



Comp.A.No.8 of 2022

WEB COM **KRISHNAN RAMASAMY, J.**

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

(a) To take his 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, in circulation in the State of Tamilnadu.

(c) To direct the Assets Reconstruction Company (India) Ltd., the respondent to remit the expenses to Official Liquidator in connection with the publication.

(d) To direct the Assets Reconstruction Company (India) Ltd, to remit Pro-rata share of 50% of amount realized to the Official Liquidator towards Workmens share under Section 529A of the Companies Act, 1956.

(e) To permit the Official Liquidator to dispense with the cost of this application as the funds position of the company in provisional liquidation is “Nil”.



2.Learned Official Liquidator would submit that this Court by order dated 24.01.2018 in C.P.No.107 of 2013 appointed the Official Liquidator as Provisional Liquidator of the M/s.Merit Spinners Private 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 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 took the possession of the property of the company in provisional liquidation. Hence, he prayed to allow the present application.

4.Though notice served and the name of the respondent is printed in the cause lists, none appeared on behalf of the respondent.

5.Upon hearing, it is seen that the present application has been filed



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seeking to permit the Official Liquidator to invite the claims from the secured and un-secured creditors. The respondent being a secured creditor has taken possession of the property of the company in provisional liquidation. Since the Official Liquidator has no fund to effect advertisement, the respondent has been impleaded as one of the party to the proceedings. Hence, 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. Accordingly, this application is allowed as regards the prayer 'A' to 'C' and 'E'.

10.02.2023

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