



WEB COPY



A.No.194 of 2023

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in

I.P.No.34 of 2018

C.SARAVANAN, J.

It is noticed that the petitioners herein have suffered an adverse Award dated 13.04.2017 in the hands of the Arbitrator in an Arbitration Proceeding initiated by M/s.L & T Finance Limited. Based on the same, M/s.L & T Finance Limited had filed Execution Application No.(L) 1230 of 2018 claiming a sum of Rs.24,66,712/- together with future interest at 18% P.A., from 10.06.2016 to 17.04.2018 till the date of payment/realization.

2. Chamber Summons No.650 of 2018 was also issued to the petitioners, pursuant to Execution Application No.(L) 1230 of 2018 filed by M/s.L & T Finance Limited to execute the Award dated 13.04.2017 of the Arbitral Tribunal.



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3. The petitioners have declared that there are other creditors namely Citi Bank, No.163, Anna Salai, Chennai – 600 002, Citi Bank, No.72-75, Dr.Radhakrishnan Salai, CIT Colony, Mylapore, Chennai – 600 004, Indusland Bank and Shri Ram City Union Finance Limited amounting to total sum of Rs.33,48,331.00.

4. The learned counsel for the petitioner submits that as far as dues to Shri Ram City Union Finance Limited is concerned, the Guarantor was also proceeded before the IX Assistant City Civil Court, Chennai in E.P.No.2700 of 2017. Since the dues to the said company was settled, the order of attachment attaching the sales of the guarantor was lifted. A reference is made to order dated 31.08.2021 in E.A.No.01 of 2021, which reads as under:

“Whereas by an order made in the above E.P.No.2700 of 2017 in ACP No.72 of 2014 the salary of the JD-2 above named was attached and communicated to you.

Now this is to you inform that by subsequent order dated 23.08.2021 in E.A.No.01 of 2021 E.P.No.2700 of 2017 in ACP.No.72 of 2014 attachment of the salary of the JD-2 is



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raised and that Deduction need not be made from the salary of the above said JD-2.

A duplicate copy of this communication must be returned to the court in acknowledgment on receipt of this communication.”

5. The office of the Official Assignee has filed a report dated 20.06.2023, Same is taken on record. The Official Assignee in the said report dated 20.06.2023 has stated that public examination has already held on 16.11.2022 and completed on 30.11.2022 to facilitate the creditors to examine the insolvent as to his conduct, dealings and property.

6. It is stated that none of the creditors have questioned the insolvent concerning his affairs and the causes of his failure and that only the Official Assignee took part in the public examination.

7. In the report, it is further stated that only a sum of Rs.31,850/- was realized towards the value of household articles of the insolvent. A



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sum of Rs.33,016/- was received from the LIC of India, towards the surrender value of the LIC policy after making payment of 7% Government Commission and reserving for administrative expenses, as of now, a sum of Rs.58,000/- is available in the estate of the petitioner.

8. The report of the official Assignee dated 20.06.2023, in para 9, it has been stated as follows:-

“9. It is submitted that in the event of admission of two claims for a sum of Rs.6,45,932/- with the available amount of Rs.58,000/-, a dividend at the rate of 0.08 paise in a rupee alone can be paid. The insolvency estate is not in a position to declare dividend of at least 25 paise in a rupee as provided under Section 39(2)(a) of Presidency Towns Insolvency Act, 1909, which is pre-requisite for granting discharge. Hence, the application is liable to be dismissed.”

9. The status of the Execution proceedings initiated by M/s.L & T Finance Limited in Execution Application No.(L)1230 of 2018 is not known.



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The petitioner to file copy of the order in Execution Application No.(L) 1230 of 2018/status of the case before the High Court of Bombay in the above application.

03.11.2023

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