IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

INTERIM APPLICATION NO. 769 OF 2024
IN
COMPANY PETITION NO. 129 OF 2016

IDBI TRUSTEESHIP SERVICES LIMITED)...APPLICANT

V/s.

RELIANCE ASSET RECONSTRUCTION)
COMPANY LIMITED)...RESPONDENT

Mr.Ieshan Sinha a/w. Ms.Dhruvi Mehta, Advocate for the Applicant.
Mr.Rushabh Sheth, Advocate for the Official Liquidator.
Mr.Chandan Kumar, Official Liquidator and Mr.Anil Bhagure, Assistant Official Liquidator, present in Court.
Mr.Satish Shah, Amicus Curiae, present in Court.

CORAM : ABHAY AHUJA, J.

DATE : 30th AUGUST 2024

P.C. :

1. Pursuant to order dated 2nd August 2024, today when the matter is called out, Mr.Satish Shah, learned Counsel appointed as amicus curiae by this Court, appears and submits that in respect of shares of the company in liquidation, which are being sought to be transferred to the Official Liquidator, as per law settled in various decisions including the decision of the Delhi High Court in the case of ***H.L.Seth vs.***

Wearwell Cycle Company (India) Ltd. and Others[1] since the shares of the company in liquidation are not vested in the Official Liquidator, the shares may not be transferred to the Official Liquidator, however, submitting that if any transfer of shares takes place during the winding up under the supervision of the Court, the Court has power to register the names of the transferees in the register of the company.

2. Mr.Shah draws the attention of this Court to Section 456(1) of the Companies Act, 1956, in respect of the company's property, where it is provided that the Official Liquidator shall take into his custody or under his control, all the property, effects and actionable claims to which the company is or appears to be entitled.

3. Mr.Shah has also drawn the attention of this Court to Section 426(1)(d) of the Companies Act, 1956, to submit that in case of a company limited by shares, no contribution is to be called upon from the past or present member exceeding the amount of unpaid capital of the shares and that, therefore also, the Official Liquidator cannot transfer the shares.

1 46 (1992) Delhi Law Times 599

4. Accordingly, let instructions be taken by the learned Counsel for the Official Liquidator as well as Mr.Sinha, learned Counsel for the Interim Applicant.

5. List for hearing and for passing orders on **20th September 2024**.

6. Let additional affidavits, if necessary, be filed on behalf of the parties, with a copy to the other side.

7. This Court wishes to record its appreciation for the services rendered by Mr.Satish Shah, learned Counsel of this Court, as Amicus Curiae in this matter.

(ABHAY AHUJA, J.)