



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR.

COMPANY APPLICATION NO. 265 OF 2024
IN COMPANY APPLICATION NO. 120 OF 2008
IN COMPANY PETITION NO. 4 OF 2001

(Official Liquidator and Liquidator of M/s S.N.K. Overseas Ltd. Vs. Nandkishore N. Kothari & Ors.)

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's Orders.

Court's or Judge's orders.

Dr. Anjan De, Counsel for the Official Liquidator.
Shri Parth Sagdeo, Counsel for LR's of respondent no.6.

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CORAM : ANIL L. PANSARE, J.
MAY 9, 2024

The record and previous orders indicate that the ex-directors have satisfied the claims of the creditors, namely, United Western Bank of India Limited (now IDBI Bank Ltd.) and Union Bank of India. What remains is the claim of PEC Limited, which according to the Official Liquidator, is to the tune of Rs.4 Crores approximately. The ex-directors have informed that this claim has been adjudicated in the arbitration proceedings and the award to that effect has been passed on 25/8/2006. The ex-directors have challenged the award under Section 34 of the Arbitration and Conciliation Act, 1996 (for short "Act of 1996"), which is pending before the Principal Seat.

2] The Official Liquidator now, by filing affidavit dated 8/5/2024, states that in view of pendency of application under Section 34 of the Act of 1996, the proceedings under Section 543 of the Companies Act,

1956 (for short “Companies Act”), may not lie against the ex-directors.

3] The learned Counsel appearing for the ex-directors submits that if at all the result in the application goes against the Company, the ex-directors shall satisfy the claim.

4] In view of above, the prayer made by the ex-directors to drop the proceedings under Sections 542 and 543 of the Companies Act of which proceedings under Section 542 has been already dropped, needs to be allowed.

5] Accordingly, the proceedings under Section 543 of the Companies Act stand dropped. In the result, Company Application No. 120/2008 also stands disposed of.

(ANIL L. PANSARE, J.)

Sumit