



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

COMPANY APPLICATION NO. 364 OF 2024
IN OFFICIAL LIQUIDATOR REPORT NO. 11 OF 2022
IN COMPANY PETITION NO. 7 OF 2001

**(Official Liquidator of Maharashtra Explosives Limited (In Liqn.) Vs. The Ld. Secretary,
Government of Madhya Pradesh, Commercial Tax Department & 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 S.D. Patil, Official Liquidator.
Shri D.I. Jain, Counsel for respondent no.5.

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CORAM : ANIL L. PANSARE, J.
APRIL 26, 2024.

By present application, the Official Liquidator is seeking to add Government Officials of the State of Madhya Pradesh, as party respondents.

2] It appears, from the record, that order of winding-up was passed on 2/8/2001. According to Official Liquidator, he has taken possession of the properties under question, viz., Khasra No. 46/2, Village – Pindertali and Khasra No. 198/3, Village – Panjreh, Taluka and District – Singrauli (M.P) on 22/11/2001 in presence of Shri Pradeep Kumar Tiwari, Patwari, Singrauli. Further, vide letter dated 20/11/2001, the fact of taking over possession of the aforesaid lands was informed to Patwari, Singrauli.

3] As such, the Official Liquidator ought to have informed the concerned Collector of the fact of taking over possession of the aforesaid properties.

Nonetheless, the Official Liquidator has allegedly taken possession of the properties in presence of Patwari and has further issued letter to that effect. In that sense, the concerned Patwari ought to have informed about the fact of taking over possession to his higher-ups. Whether he has done or not is a different matter, but then because of the lapses committed at various places, the properties under question came to be sold to two persons. The Commercial Tax Department, Government of Madhya Pradesh, has, on 30/11/2004, auctioned the aforesaid properties in favour of respondent no.5 – Mahendra Pratap Singh. The Official Liquidator has, on 30/10/2007, sold the properties, through auction, to Cozy Properties Private Limited.

4] The question is once winding-up order is passed, whether the sale proceedings, initiated by the Commercial Tax Department, Government of Madhya Pradesh, will be valid ? The auction purchaser is before the Court, but the authorities, responsible for the auction, are not.

5] In view of above and to resolve the issue involved, it will be appropriate to permit the Official Liquidator to add the Officials of the Government of Madhya Pradesh, mentioned in paragraph 4 of the application, as party respondents.

6] Therefore, the application is allowed, as prayed for. The amendment be carried out within five working days. Once amendment is carried out, issue

notice to the newly added respondents returnable four weeks thereafter.

7] After passing order, it has been noticed that the Official Liquidator has filed O.L.R. No. 11/2022 against these very respondents in the sense the Government Officials of the State of Madhya Pradesh have been added as party respondent nos. 1 to 5. Thereafter, the subsequent purchaser, i.e., Cozy Properties Private Limited, was added as party respondent no.6. Despite such status, the Official Liquidator has filed the present application seeking permission to add the Officials of the Government of Madhya Pradesh as respondent nos. 1 to 5, who are already on record in the said capacity. Dr. De, learned Counsel appearing for the Official Liquidator, seeks permission to withdraw the application.

8] It is unfortunate that after passing order, these facts have been surfaced. The Official Liquidator ought not to have filed the application. The manner in which the proceedings are being conducted are not befitting the sensitive post of the Official Liquidator.

9] In these circumstances, though permitting amendment by present order is inconsequential, the respondents being already on record, the Official Liquidator should be made to realize the consequences of being negligent before the Court and, therefore, permission to withdraw the application is allowed subject to costs of Rs.25,000/- to be paid by the Official Liquidator from his own pocket. The cost be deducted

from his salary for the current month. Compliance report be filed by next date or immediately thereafter. Copy of order be served upon the Ministry of Corporate Affairs, Government of India for information and necessary action.

10] Issue notice to respondent nos. 1 to 4 and 6 returnable in six weeks.

11] Registry to ensure service of notice before the next date.

(ANIL L. PANSARE, J.)

Sumit