



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

COMPANY APPLICATION NO. 168 OF 2003
IN OFFICIAL LIQUIDATOR REPORT NO. 74 OF 2003
IN COMPANY PETITION NO. 5 OF 1997

**(Official Liquidator & Liquidator of Sanjeevani Savings & Investments (India) Vs. Shri
Rajendra Sahebrao Nadkande, Daryapur & 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 Nitin Jachak, Counsel for respondent nos. 15
and 19.

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

On 12/7/2024, the following order was
passed :

*“Learned counsel for the Official
Liquidator seeks time to take a call whether
the proceedings under Sections 542 and
543 of the Companies Act, 1956 are
maintainable.*

Stand over to 26-7-2024.”

2] In *Narayan V/s Official Liquidator of
Maharashtra Asbestos Private Ltd.*, the Division
Bench of this Court in Company Appeal No. 13/2008
has discharged the appellant therein by setting aside
the order passed by the Company Court. The Court
held that the active engagement in the administration
or management of the affairs of the Company is

required prior to making declaration under section 543 of the Act of 1956.

3] In *Official Liquidator, High Court Madras V/s Gautham Dhiraj Mal Ranka & others*, 2007 SCC OnLine Mad. 888, the High Court of Madras has discharged the ex-directors on the ground that, charges of misfeasance and non-fesance were made without pinpointing a specific act of dishonesty and misappropriation, and were general in nature.

4] In *Security and Finance Private Limited V/s B. K. Bedi and others*, 1990 SCC OnLine Del. 102, the High Court of Delhi has discharged the ex-directors on the ground of absence of specific allegations. The Court held that when the allegations are not specific and details of fraud are not given, then the Court cannot indulge in the fishing or roving enquiry. The enquiry is to be confined to the purpose with which the business of the Company had been carried on and the persons, who were knowingly parties to that act. There has to be positive and specific evidence and pleadings in respect of the individual director.

5] Dr. Anjan De, learned Counsel for the Official Liquidator, submits that the proceedings under Sections 542 and 543 of the Companies Act, 1956, are not maintainable inasmuch as the

investigation report filed by the Chartered Accountant does not disclose the individual acts done by the ex-directors and, therefore, specific liability cannot be filed in terms of the provisions under Sections 542 and 543 of the Act of 1956.

6] In view thereof, Company Application No. 168/2003 is disposed of as not maintainable.

7] The Official Liquidator shall file statement of assets and liabilities of the Company under liquidation for further consideration.

8] In view of order passed above, Civil Application Nos. 1153/2009, 691/2010, 450/2010, 106/2010, 46/2010 and 45/2010 in Civil Application No. 168/2003, do not survive. The same stand disposed of accordingly.

JUDGE

Sumit