



10-2022

1

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

COMPANY APPLICATION NO. 10 OF 2022
IN COMPANY PETITION NO. 5 OF 2001 (D)

(Sau. Ranjana w/o Wasudeorao Bharsakle & Ors. Vs. Registrar of Companies & Anr.)

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

Court's or Judge's orders.

Shri Shriniwas Deshpande, Counsel for non-applicant
no.2/Official Liquidator.

.....

CORAM : ANIL L. PANSARE, J.
APRIL 5, 2024.

None appears for the applicants and non-applicant no.1. I have gone through the application and documents with the assistance of the learned Counsel appearing for non-applicant no.2, the Official Liquidator.

2] The applicants have prayed for issuance of directions to the Official Liquidator to pay an amount of Rs.35,493.24/- with interest @ 12% per annum from 11/4/2016 till realization of amount.

3] It appears that on 1/4/2016, the Official Liquidator had issued Notice of Dividend to the predecessor of the applicants stating therein that an amount of Rs.35,493.24/- is payable to him as on 2/5/2016. The noticee was instructed to approach the Official Liquidator to collect the dividend on any working day from 2/5/2016 till 1/11/2016. The predecessor of the applicants appears to have not responded. However, I am informed that he had expired on 17/7/2006.

4] The learned Counsel for the Official Liquidator states that since the noticee did not respond to

the notice of dividend, the amount under question has been transferred to the Registrar of Companies in terms of Section 555(3) of the Companies Act, 1956 on 9/3/2017 and, therefore, the applicants may not be entitled for interest.

5] The applicants have claimed the amount on the basis of succession certificate issued to them by a Competent Court on 2/11/2016 in M.J.C. No. 46/2016. The applicants have referred to the notice of dividend issued by the Official Liquidator in favour of deceased Manikrao. Thus, it appears that the applicants were aware of issuance of notice. Despite such status, the applicants have not lodged their claim immediately but have approached this Court in the year 2022.

6] In the circumstances and the amount of dividend having been adjudicated and payable to the predecessor of the applicants, I do not find any reason why should this amount be not paid to the applicants. The question is whether the applicants are entitled for interest from 11/4/2016. The applicants have themselves referred to the notice dated 11/4/2016 (it ought to be 1/4/2016) and, thus, were aware of the notice of dividend. The application is silent as to what prevented the applicants from approaching Registrar of Companies or Official Liquidator or the Court immediately after 1/4/2016. Having not done so, the applicants will not be entitled to claim any interest. Hence, the following order :

ORDER

I] The application is partly allowed.

II] The non-applicant – Registrar of Companies shall pay the amount of Rs.35,493.24/- to the applicants in equal proportion within eight weeks of production of succession certificate issued to them by a Competent Court.

7] The application is disposed of in above terms.

(ANIL L. PANSARE, J.)

Sumit