



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR

OFFICIAL LIQUIDATOR'S REPORT NO. 2/2018 WITH COMPANY CRIMINAL
APPLICATION NO. 3/2024 IN COMPANY PETITION NO.22/2016

In the matter of M/s. Chanda Devi and Sons Pvt. Ltd.

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

Court's or Judge's orders

Official Liquidator in person.
Mr. Kartik Shukul, Advocate for petitioner.

CORAM : ANIL L. PANSARE, J.

DATE : 08.03.2024

The Official Liquidator is seeking permission to file complaint under Section 454 (5) of the Companies Act, 1956 (For short the, "Act") against the ex-Directors of the company. The order of winding up was passed on 24.02.2017. The Official Liquidator was appointed as provisional liquidator with usual powers and duties under the Act. The Official Liquidator has stated that it was obligatory on the part of the ex-Directors of the company to file statement of affairs with the Official Liquidator within 21 days from the date of winding up order in terms of Section 454(3) of the Act. The Official Liquidator has issued notice dated 09.05.2017 to the ex-Directors. The notice has been returned back undelivered. It appears that the ex-Directors were not residing at the address given. The Official Liquidator has then referred the matter to the police authorities to investigate about the whereabouts of the ex-Directors of the company. The Commissioner filed report dated 28.06.2017. The report submitted by the Senior Police Inspector, Police Station, Ajni, indicates that the ex-Directors are not residing at the address

given by the Official Liquidator so also the address which was available on the website of the company.

Thus, until the address of ex-Directors is ascertained, issuance of summons will be a futile exercise. The Official Liquidator, therefore, shall ascertain the exact address of the ex-Directors and, thereafter, may file application under Section 454(5) read with Section 454 (5A) of the Act for taking cognizance against the ex-Directors.

The Official Liquidator's Report and the application are disposed of accordingly.

Company Petition No. 22/2016

In compliance of order dated 01.03.2024, the Official Liquidator states that there are no assets of the company and to the credit of company, there is balance of Rs.3766/- only. The Official Liquidator states that he is not fully aware of the outstanding dues against the company. The Official Liquidator submits that he has not invited the claims for want of funds. As such, the availability of funds is not a criterion to invite the claims. The Official Liquidator is bound to invite the claims in terms of Rule 139 of the Company (Court) Rules, 1959.

Be that as it may. The fact remains that to the credit of company, a meager amount of Rs.3766/- is available. There are no assets with the company under liquidation. It appears that the continuance of winding up proceeding is a futile exercise.

In my considered opinion, the Official Liquidator cannot proceed with the winding up of the company for want

of funds and assets. In fact, the Official Liquidator is not in a position to satisfy the fees of the advocate engaged by him. The Official Liquidator states that the balance amount can be adjusted towards administrative exigency.

Thus, there appears no reason to continue with the winding up proceeding. The company stands dissolved in terms of Section 481 of the Companies Act, 1956. Amount available to the credit of the company may be utilized towards administrative expenses of the Official Liquidator. The Company Petition stands disposed of accordingly.

(Anil L. Pansare, J.)