



WEB COPY



Comp.A.No.28 of 2020
in
C.P.No.123 of 2016

Comp.A.No.28 of 2020 in
C.P.No.123 of 2016

KRISHNAN RAMASAMY, J.,

This application has been filed by the learned Official Liquidator to take the report filed by her on record and to permit her to take possession of Non-mortgaged property at Delna Paragna Village, Bhagwanpur Tehsil, Roorkee District, Hardwar owned by the subject company in liquidation.

2. The learned Official Liquidator filed a report stating that this Court vide order dated 17.10.2016 made in C.P.No.123/2016 passed the winding up order of M/s.Arvind Remedies Limited and appointed the Official Liquidator with a direction to take charge of all the assets of the said Company, pursuant to which, learned Official Liquidator has taken possession of the Company in liquidation. Thereafter, this Court vide order 06.04.2017 made in C.A.No.264 of 2017, directed the Official Liquidator to deliver the possession of the company's properties to the secured creditor bank viz., Punjab National Bank to proceed further under SARFAESI Act.



Comp.A.No.28 of 2020
in
C.P.No.123 of 2016

WEB COPY

Accordingly, the Official Liquidator handed over the possession of the Company's property to Punjab National Bank on 17.04.2017. The Ex-Director of the Company in liquidation has filed Statement of Affairs before the Official Liquidator. While so, the Respondent Bank, who happens to be the secured creditor vide its letter dated 12.09.2018, requested the Official Liquidator to intimate the convenient date for taking over the books and records of the Company in provisional Liquidation, for which the learned Official Liquidator has sent a reply dated 10.10.2018 to the Respondent Bank, fixing the date for taking possession of books and records from the said bank on 15.10.2018. As there was no reply from the Respondent Bank, the learned Official Liquidator has sent a letter dated 31.10.2019 to the Respondent Bank to handover all the books and records to the Official Liquidator, but no reply has been received till date.

3. This being the position, the learned Official Liquidator has received a notice dated 19.03.2019 from The Recovery Officer, Debts Recovery Tribunal- II, Chennai intimating about the execution of DRC



WEB COPY



Comp.A.No.28 of 2020
in
C.P.No.123 of 2016

No.242/2018 in O.A.No.298/2016, for attachment and sale of non-mortgaged property situated at Deina Paragna Village, Bhagwanpur Tehsil, Roorkee District, Hardwar owned by M/s.Arvind Remedies Private Limited. It is further stated that the learned Official Liquidator is not aware of the existence of the aforesaid property. While so, the Recovery Officer, DRT, II passed an order on 08.05.2019 in DRC.No.242/2018 in O.A.No.298/2016, by making observation that the Secured Creditor (Punjab National Bank) is not entitled to attach and sell the non mortgaged property which already stand vested in the custody of the official Liquidator. Hence, this application has been filed seeking for the reliefs stated supra.

4. The learned counsel for the Respondent-Bank submitted that they are concerned only about the mortgaged properties and application has been filed before the Debts Recovery Tribunal for attachment only in respect of the mortgaged properties and not non-mortgaged properties.



WEB COPY



Comp.A.No.28 of 2020
in
C.P.No.123 of 2016

5. Considering the submissions made by learned Official Liquidator and the learned counsel for the Respondent, this Court is of the view that if non-mortgaged property owned by the Company in liquidation are available, the Official Liquidator may be permitted to take possession of the aforesaid non-mortgaged property.

6. Accordingly, this Court passes the following order.

(i) The learned Official Liquidator is directed to take possession of the non-mortgaged property situated at Deina Paragna Village, Bhagwanpur Tehsil, Roorkee District, Hardwar, owned by the Company in liquidation.

(ii) The learned Official Liquidator is permitted to approach the concerned Village Administrative Officer or Tahsildar to find out the details of the properties which are in the name of Company in liquidation before taking possession and the said officials shall furnish the required details to



Comp.A.No.28 of 2020
in
C.P.No.123 of 2016

WEB COPY

the Official Liquidator.

This Application is disposed of accordingly.

14.06.2024

arr



WEB COPY



Comp.A.No.28 of 2020
in
C.P.No.123 of 2016

KRISHNAN RAMASAMY, J.,
arr

Comp.A.No.28 of 2020 in
C.P.No.123 of 2016

14.06.2024