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Comp.A.No.63 of 2024

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in

C.P.No.36 of 2006

C.SARAVANAN, J.

The applicant is a secured creditor of the Company under liquidation and was permitted to sell the secured assets pursuant to order of this Court dated 21.06.2018. This order was subject to further modification.

2. Ultimately, the secured assets of the Company under liquidation were sold by the applicant. The amount was deposited by the applicant in a no lien account maintained by them.

3. It appears that a sum of Rs.5,25,00,000/- was recovered from the sale of the assets.

4. Earlier, by an order dated 13.04.2023, Court had ordered as follows:-

"3. Since the learned Official Liquidator and the applicant would submit that 50% of Rs.5,25,00,000/- can be released in favour of the Official Liquidator towards the workmen's claim as they are entitled pari passu charge on the secured assets at par with secured creditors, this Court is of the considered view that the said amount, i.e., 50% of the sale proceeds, shall be transferred to the Official Liquidator, so



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that he can utilise the same for the purpose of disbursement of the claims of workmen."

5. The order was later modified on 23.06.2023, to read as follows:-

"4. Considering the above submissions made by the learned counsel for the applicant, this Court is inclined to modify the 3rd paragraph as well as 4th paragraph of the order dated 13.04.2023 passed in Company Application Nos.102 & 104 of 2022. Accordingly, the 3rd & 4th paragraphs of the said order are modified as follows:

"3. The learned counsel for the applicant submitted that this Court vide its earlier order dated 02.03.2023 in Company Application No.103 of 2022, permitted the applicant to appropriate expenses of Rs.19,50,942/- incurred by it towards safeguarding the secured immovable property of the respondent company from and out of the sale proceeds of Rs.5,25,00,000/- realised from the sale of secured immovable property of the respondent company. After reckoning the said amount of Rs.19,50,942/-, now, the amount lying in the no-lien account of applicant is Rs.5,05,49,058/-. Hence, the learned counsel prayed this Court to permit the applicant to withdraw 50% of Rs.5,05,49,058/- from its no-lien account and to retain the balance 50% of Rs.5,05,49,058/- in its no-lien account until the learned Official Liquidator adjudicates the claims of workmen. He also prayed this Court to permit the applicant to release the balance 50% of Rs.5,05,49,058/- to the learned Official Liquidator, depending upon the quantum of claims adjudicated by him.

4. Upon perusing the Report filed by the learned Official Liquidator and hearing the above submission made by the learned counsel for the



applicant, I am of the opinion that being a secured creditor, the applicant is entitled to withdraw the 50% of aforesaid amount of Rs.5,05,49,058/- from its no-lien account. Hence, this Court permits the applicant to withdraw 50% of Rs.5,05,49,058/- from its no-lien account. So far as the balance 50% of Rs.5,04,49,058/- is concerned, the same has to be retained in the no-lien account of the applicant until the learned Official Liquidator adjudicates the claims of the workman. Only after the completion of adjudication, depending upon the quantum of claims adjudicated by the learned Official Liquidator, the balance 50% of Rs.5,05,49,058/- will be released from the applicant's no-lien account to the learned Official Liquidator.

5. In all other aspects, the order dated 13.04.2023 passed by this Court in Company Application Nos.102 & 104 of 2022 remains the same. Registry is directed to issue a fresh order copy to all concerned, after carrying out the above corrections."

6. The present application has been filed to direct the respondent/Official Liquidator to adjudicate and disburse the claims of the workmen of the respondent Company in a time bound manner and to consequently distribute, on a *pro rata* and *pari passu* basis and the amounts so realised by way of income/dividends and sale of secured assets.

7. I see no impediment in disposing this application after hearing the learned counsel for the applicant and the learned Deputy Official Liquidator.

8. The Office of the Official Liquidator is directed to adjudicate the



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claims to the workmen of the respondent Company within a period of three months from the date of receipt of a copy of this order.

9. On adjudication, the applicant Company is directed to transfer the amount to the Office of the Official Liquidator which is lying presently in a no lien account as per the order of this Court dated 23.06.2023 for distribution of the sale proceeds/claims to the workmen of the respondent Company.

10. This Company Application stands disposed of with the above observations.

23.02.2024

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