



Company Application No.86 of 2023
in
Company Petition No.279 of 2016

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K.KUMARESH BABU, J.

The application has been filed for the following reliefs:-

- (a) to take this report on record;
- (b) to direct the respondent/Debtor to pay a sum of Rs.5,45,000/- along with interest as determined/ suggested by this Court from 18.10.2016, the date of winding up till the date of remittance of principal amount along with interest;
or
to permit the Official Liquidator to value the property mentioned in the Sale Deed No. 2149 /2006 dated 14.06.2006 by engaging the services of ITCOT Limited and to file necessary application to being the property for sale with permission to meet the valuation expenses from and out of the funds of the company in provisional liquidation;
- (c) to direct that the cost of this application do come out of the funds of the company in provisional liquidation.



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2. Heard Ms.B.Ambili, learned Deputy Official Liquidator.

3. There is no representation on the side of the respondent.

4. From the court records, it could be seen that notice was ordered to the respondent on 16.02.2023 and thereafter, a learned counsel had undertook to file vakalat on behalf of the respondent on 24.03.2023 and thereafter, the matter had been listed for filing of counter by the respondent. By order dated 21.08.2023 recording that the counter had not been filed till the said date, and considering the nature of this application, the matter was directed to be listed before the learned Master for recording of evidence. By order dated 16.10.2023, the learned Master recording that both the learned Official Liquidator as well as the respondents were not represented had directed the matter to be listed before this Court. When the matter was taken up on 27.06.2024, recording the inability of the learned Deputy Official Liquidator for leading an evidence and also based on her request, again the matter was relegated to the learned Master for recording of evidence. Thereafter, on 27.06.2024, the matter was again listed before the learned Master and the evidence was recorded on the side of the applicant and the matter was directed to be listed before this Court by the orders of the learned Master dated 16.07.2024. Again, when the matter was listed on 19.07.2024, on the request made by the learned counsel appearing for the



respondent, the matter was again directed to be listed by the learned Master granting an opportunity to the respondent to adduce evidence. When the matter again was listed on 29.08.2024 before the learned Master, PW1 was cross-examined and the learned Master has recorded that no oral evidence on the side of the respondent as reported and directed the matter to be listed before this Court. When the matter was listed on 06.09.2024, the application was adjourned to 20.09.2024 at the request of the learned counsel for the respondent. Again when the matter was listed on 20.09.2024, the same was adjourned to 27.09.2024 at the request of the respondent. Today when the matter was taken up, there is no appearance on the side of the respondent.

5. The present application had been taken out seeking for a direction to the respondent to make a payment of Rs.5,45,000/- along with the interest to be determined by the Court or otherwise to permit the Official Liquidator to value the property mentioned in the sale deed by engaging the services of ITCOT Limited and to bring the property for sale with permission to meet the valuation expenses.

6. The respondent had not filed counter nor had produced any witness to repudiate the claim of the applicant. The applicant has led evidence wherein by



marking Exhibit A1, the statement of affairs of the company, as well as Exhibit A2, the demand notice sent to the respondent, which has also not been replied to by the respondent had proved the claim made in the application. Even in the cross-examination nothing had been elucidated by the learned counsel of the respondent to repudiate or discredit the deposition of PW1 or the documents. Suggestions have been only made to drive a claim that a portion of the amount had been paid by the respondent, which has also been stoutly denied. Then the cross-examination also suggests that the respondent was ready to pay the balance amount. However, the respondent had not been taken any efforts to let in any evidence to prove that he had made part payment as suggested in the cross-examination.

7. In such view of the matter, I am inclined to allow the application as prayed for and the respondent is directed to deposit a sum of Rs.5,45,000/- together with interest at 9% per annum within a period of eight weeks from the date of receipt of the copy of this order. Failing such payment, the Official Liquidator is permitted to value the property and bring it for sale through a public auction for recovery of the said amount. No orders as to costs.

27.09.2024



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Dated : 27.09.2024