



A.No.2761 of 2024 in C.S.No.346 of 2016

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SENTHILKUMAR RAMAMOORTHY, J.

By this application, the applicants / plaintiffs seek permission for the second plaintiff to be represented by the Liquidator, Mr. Ashok Seshadri.

2. The applicants have annexed an order dated 13.07.2023 of the National Company Law Tribunal, Division Bench, Chennai (Court -II) in support of the contention that Mr. Ashok Velamur Seshadri was appointed as the Liquidator. Learned counsel relies on the said order and contends that an amendment is necessary as a consequence.

3. Learned counsel for the respondents/defendants opposes this application by contending that the permission of the National Company Law Tribunal should have been obtained before filing this application. He relies upon sub-section 5 of Section 33 of the Insolvency and Bankruptcy Code, 2016 (the “IBC”). He also contends that the first plaintiff was struck off from the Register of Companies, even prior to the institution of the suit and that both directors of the first plaintiff had resigned prior to



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the institution of the suit.

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4. In this application, the limited question that arises for consideration is whether the second plaintiff should be represented by the Liquidator. As a consequence of the order of liquidation, only the Liquidator can represent the second plaintiff. The order of liquidation indicates that the company entered Corporate Insolvency Resolution Proceedings (*CIRP*) on 06.06.2022. It was incumbent on the second plaintiff to bring this fact to the notice of this Court and seek permission for being represented through the resolution professional at that juncture. Nonetheless, this is not a ground to reject the application for permission to be represented by the Liquidator upon liquidation being ordered.

5. In this connection, it should be noticed that sub-section (5) of Section 33 of the IBC requires the prior approval of the Adjudicating Authority for the institution of suits or other proceedings by the Liquidator on behalf of the corporate debtor. The provision does not prescribe that such prior approval should be obtained with regard to the



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continuation of pending suits.

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6. Therefore, this application is allowed and the second plaintiff is directed to be represented by the Liquidator, Mr. Ashok Velamur Seshadri. The plaintiff is directed to carry out the amendments in the plaint on or before 30.08.2024 and serve a copy of the amended plaint on learned counsel for the defendants within a week thereafter.

19.08.2024
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