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Comp. A.No.534 of 2023

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in

C.P.No.71 of 1974

Krishnan Ramasamy,J.,

This Company Application is filed, seeking the following prayers:-

“1. To take this report on record.

2. To direct the District Collector, Pudukottai to issue instruction to the concerned revenue authorities to inspect the property of the company in liquidation having an extent of 1.82 acres situated at Old Door No.52 & 53, New No.61 & 62, comprised in T.S.No.8558/13,14,15 and 16 and to submit a detailed fact finding report.

3. To direct the Sub-Registrar, Pudukkottai to furnish details of all such registration taken place in respect of properties in the name of company in liquidation subsequent to the winding up i.e 10.01.1975 and also not to entertain any further registration /transfer of property having an extent of 1.82 acres belonging to the company in liquidation situated at Old Door No.52 & 53, New No.61 & 62, comprised in T.S. No.8558/13,14,15 and 16, Thirumayam main Road, Pudukottai in terms of section 456 and 536(2) of the Companies Act, 1956.



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4. To direct the District Superintendent of Police to remove the encroachment made by a third party viz., Shri. Gopi, S/o. Ramasamy in company's landed property situated at Old Door No.52 & 53, New No.61 & 62, comprised in T.S.No.8558/13,14,15 and 16, Thirumayam main Road, Pudukottai and the authorities may also be instructed to cause regular patrolling for protection and preservation of the subject property from the criminals/strangers/third parties and also to remove the encroachments inside and outside the company's landed property."

2. Ms.B.Ambili, Deputy Official Liquidator would submit that various applications have been filed by the aggrieved parties against the subject property of the company in liquidation before other forums. Among those, one is, SLP (C) No. 11947 of 2010 filed by Shri. R.Srinivasan against Southern and Rajamani Transports Pvt. Ltd., and 38 others, pending before the Hon'ble Supreme Court. The said appeal is filed arising out of the impugned final order dated 30.03.2010 in C.R.P. No.463 of 2010 passed by the Madurai Bench of this Court, Madras in respect of specific performance for sale agreement entered between R.Srinivasan and contributory of the company in liquidation for the subject property situated at Pudukottai.



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3. She would also submit that apart from the above C.A.No.80 of 2019 filed by Shri.T.K. Paramasivam and Smt.P.Geethabai against Smt. Senchulakshmi, one of the legal heirs of the contributory who has entered a sale agreement dated 15.09.2011 with the applicants therein after the date of winding up of the company, without the leave of this Court. Hence, the Official Liquidator has filed counter seeking directions to declare the sale transaction as null and void in terms of section 536(2) of the Companies Act, 1956. Similarly another application in C.A.No.97 of 2021 was filed by Shri V.M. Balakrishnan and V.M. Gajapathi to revalidate the transfer of 20 shares in favour of Shri.M.K.P.Srinivasaperumal and to substitute the name of Shri.M.K.P. Srinivasaperumal to which the Official Liquidator has filed counter seeking directions to declare the transfer of share transaction as null and void in terms of section 536(2) of the Companies Act, 1956 as the said transaction was taken place after the date of winding up of the subject company. The above mentioned company applications are pending for disposal for the outcome of the application pending before the Hon'ble Supreme Court stated supra.

4. The learned Official Liquidator would point out that an application is filed in C.A.No.313 of 2023 for valuation of the subject property



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and the same is also pending before this Court until the outcome of the application pending before the Hon'ble Supreme Court.

5. She would also submit that one of the legal heirs of the Ex-Director viz., Shri.V.R.Narasimmalu informed the Official Liquidator vide e.mail dated 21.06.2023 that there has been an encroachment by a stranger over the company's landed property at Pudukottai and requested to take an immediate action. In this regard, the Official Liquidator had addressed a complaint letter dated 04.07.2023 to the Deputy Superintendent of Police, Rajagopalapuram, Pudukkottai, requesting to provide police protection for safeguarding the immovable asset of the company in liquidation and to submit an action taken report in this regard.

6. Subsequently, the Official Liquidator vide another letter dated 19.07.2023 also addressed to the Sub-Registrar, Pudukkotai requesting not to entertain any register /transfer of property in the survey numbers belonging to the company in liquidation in terms of section 456(2) of the Companies Act, 1956.



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7. The learned Official Liquidator would further submit that an official of her office has been deputed to the site to ascertain the encroachment.

The said official so deputed had reported that a person by name Shri.Gopi Rajamani, Pudukottai has encroached a portion of the property and made construction therein. Subsequently the Official reported the same to the Jurisdictional Police Station i.e O/o. The Deputy Superintendent of Police, Rajagopalapuram, Pudukkottai. However, the authorities have not taken up the complaint. In such circumstances, the deputed official could not get the acknowledgment of the complaint lodged by him in the police station.

8. Subsequently, the Deputy Superintendent of Police (in short, DSP), Pudukottai vide e.mail dated 08.08.2023 submitted a report. As per the report of DSP, it has been informed that upon enquiry, one Shri Gopi S/o. Ramasamy, Rajagopalapuram had constructed a Shed at the company's premises and he has stated that the said portion of land was gifted by his Father Shri. Ramasamy towards settlement deed, vide Document No.3598/18 and in this regard, Notice for No objection was Issued on 27.03.2019. It was also informed by the Police authorities that Shri. Narsimmalu, being one of the legal heirs of the contributory has approached a third party Shri. Karur Gunasekaran



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for sale of 1.82 cents of land pertaining to the company in liquidation and assured to get concurrence from all the 38 contributories for sale of the said land. Hence, the police authorities have informed the Official Liquidator to approach the concerned authorities for removal of the encroachment with a request to District Superintendent of Police to provide security henceforth for protection and preservation of the assets of the company in liquidation.

9. Considering the submissions made by the applicant/Official Liquidator and having been satisfied with the reasons averred in the affidavit filed in support of this Application, and in order to protect the aforesaid properties of the company in liquidation, the Company Application is allowed with the following directions:-

i) The District Collector, Pudukottai is directed to issue instructions to the concerned revenue authorities to inspect the property of the company in liquidation having an extent of 1.82 acres situated at Old Door No.52 &53, New No.61 & 62, comprised in T.S.No.8558/13,14,15 and 16 and to submit a detailed fact finding report.

ii) Sub-Registrar, Pudukkotai is directed to furnish details of all such



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registration taken place in respect of properties in the name of company in liquidation subsequent to the winding up i.e 10.01.1975 and also not to entertain any further registration /transfer of property having an extent of 1.82 acres belonging to the company in liquidation situated at Old Door No.52 & 53, New No.61 & 62, comprised in T.S. No.8558/13,14,15 and 16, Thirumayam main Road, Pudukottai in terms of section 456 and 536(2) of the Companies Act, 1956.

iii) The District Superintendent of Police is directed to remove the encroachment made by a third party viz., Shri. Gopi, S/o. Ramasamy in company's landed property situated at Old Door No.52 & 53, New No.61 & 62, comprised in T.S.No.8558/13,14,15 and 16, Thirumayam main Road, Pudukottai and the authorities may also be instructed to cause regular patrolling for protection and preservation of the subject property from the criminals/strangers/third parties and also to remove the encroachments inside and outside the company's landed property.

26.04.2024

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