



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORIGINAL ORDINARY APPELLATE JURISDICTION
IN ITS COMMERCIAL DIVISION

INTERIM APPLICATION NO.2164 OF 2025
IN
COMPANY PETITION NO.259 OF 1991

Dinesh Kalyanji Mav ... Applicant.
In the matter between:
Motilal C. Kanugo, Prop.of
M/s. Deepak Steel ((India) ... Petitioner.
Versus
M/s.Spantech Equipment & Systems Pvt. Ltd. ... Respondent.

Ms. Vidisha Rohira a/w. Mr.Arun Mehta i/by Akshar Laws for Applicant.
Mr. Anirudha Hariani, for Official Liquidator.
Mr. Satyajit Roul, Official Liquidator, present.
Mr.Anil Bhagure, Deputy Official Liquidator, present.

Coram : Sharmila U. Deshmukh, J.
Date : June 20, 2025

P.C. :

1. Interim Application has been preferred for seeking discharge of the Official Liquidator and that the symbolic possession which was taken by the Official Liquidator on 5th December, 2023, be restored to the Applicant.
2. Learned counsel appearing for the Applicant submits that the Applicant is a subsequent purchaser of the property being Unit No.14, located at Deonar, Mumbai. She submits that the property was purchased for valuable consideration pursuant to Deed of Conveyance dated 8th March, 2002 executed between the company under

liquidation and the present Applicant. She submits that by order of 13th July, 1998 passed in Company Petition No.259 of 1991, the Respondent-Company was directed to be wound up. She submits that an Application was taken out in the said Company Petition and by order dated 9th October, 1998, this Court had during the pendency of the Application directed the Official Liquidator not to take possession or further steps. She submits that being the subsequent purchaser in the year 2002, the Applicant is not aware as to whether the Company Application in which the Official Liquidator was directed not to take possession or further steps has been disposed of. She submits despite diligent steps and efforts taken by the Applicant, the records are not traceable and are stated to be destroyed in the year 2004. She would further submit that the Official Liquidator did not act from 1998 and in 2023 have taken symbolic possession of the premises. She submits that there is no record available and in view of the order of 9th October, 1998, the Official Liquidator is restrained from taking possession.

3. *Per contra*, learned counsel appearing for the Official Liquidator submits that the office of Official Liquidator does not have the relevant records as regards the Company Application (L) No.744 of 1998, in which the order of 9th October, 1998 was passed. He submits that subsequent to Government Notification directing the dissolution of the companies which were ordered to be wound up, the Official Liquidator had taken search of all its records and it was revealed that the Company Application (L) No.744 of 1998 has been disposed of. He

submits that communications were established with the ex-Director of the company under liquidation asking for the orders passed disposing of the company application as well as with the Applicant however, none were found. He submits that the Official Liquidator has acted in accordance with the Government Notification and has therefore proceeded in accordance with law.

4. The order of winding up was passed on 13th July, 1998. Perusal of the order of 9th October, 1998 discloses that the Company Application (L) No.744 of 1998 sought recall of the order of winding up by the company on the ground that the company directors have discharged the debts. Pertinently Clause 3 of the order of 9th October, 1998 restrains the Official Liquidator in view of the pendency of the Application not to take possession or further steps. In the absence of availability of the order finally disposing the Company Application (L) No.744 of 1998, there is no clarity whether the order of winding up is recalled or subsisting. The fact that in year 2002, the subject property was sold to the Applicant under a valid conveyance containing a recital of clear title tilts the scales in favour of Applicant. Another factor which favours the Applicant is that if the application would have been dismissed, the office of Official Liquidator would have taken prompt steps for taking possession of the property. Since 1998 till 2023, no steps were taken by the office of the Official Liquidator to take possession symbolic or otherwise of the said property. It is only in the year 2023 that symbolic possession has been taken pursuant to the Government Notification issued. As there are no records which are

available in respect of Company Application (L) No.744 of 1998, in view of the last order which is on record which of 9th October, 1998 and which cannot be disputed, unless and until, it is demonstrated that Company Application has been dismissed or the order of 9th October, 1998 has been modified or varied or reversed, the order will have to be complied with. The Applicant has a valid registered Deed of Conveyance of the year 2002 and is in possession of the subject premises. There is no reason for the Official Liquidator to take possession symbolic or otherwise of the said premises without verifying the finality of the order passed in the Company Application.

5. In light of the above, the Official Liquidator is directed to withdraw the symbolic possession in respect of subject premises. As far as the relief of discharge of the Official Liquidator is concerned, unless and until there is some material which is placed on record to demonstrate that the order of winding up dated 13th July, 1998 has been recalled, the said relief cannot be allowed.

6. In view of the above, Interim Application is allowed by directing the Official Liquidator to withdraw the symbolic possession taken on 5th October, 2023 in respect of Unit No.14, Shah Industrial Estate, Ground Floor, Building A, Plot No.10-B, Deonar, Mumbai 400088.

7. Needless to clarify that the office of the Official Liquidator is at liberty to take out appropriate Application in respect of the said Company Petition.

[Sharmila U. Deshmukh, J.]