IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR.

COMPANY PETITION NO. 1 OF 1981

(In the matter of M/s. R.B. Shreeram Durgaprasad Ltd. (In Liqn.))

Office Notes, Office Memoranda of Coram, appearances, Court's orders of directions and Registrar's Orders.	Court's or Judge's orders.
	Mr. Shriniwas Deshpande, Counsel for the Official Liquidator with Ms. U.P. Parmar, Official Liquidator.

CORAM : ANIL L. PANSARE, J.
JANUARY 17, 2025

In compliance to order dated 3/1/2025, the Official Liquidator has filed report of present status of the Company. It shows that except for misfeasance proceeding, which is pending before the Court, no other proceeding is pending. The misfeasance proceeding bears Company Application No. 27/1986, which is not on record and upon mentioning, the same is taken on record.

COMPANY APPLICATION NO. 27 OF 1986

2] The officials of the Registry have informed that the record of Company Application No. 27/1986 is not traceable. The Official Liquidator has tendered across the bar copy of the entire proceedings. Thus, the record is reconstructed.

3] Heard.

4] In *Narayan V/s Offcial Liquidator of Maharashtra Asbestos Private Ltd.*, the Division Bench of this Court in Company Appeal No. 13/2008 has discharged the appellant therein by setting aside the order passed by the Company Court. The Court held that the active engagement in the administration or management of the affairs of the Company is required prior to making declaration under section 543 of the Companies Act, 1956 (for short "Act of 1956").

5] In *Official Liquidator, High Court Madras V/s Gautam Dhiraj Mal Ranka & others [2007 SCC OnLine Mad. 888]*, the High Court of Madras has discharged the ex-directors on the ground that charges of misfeasance and nonfeasance were made without pinpointing a specific act of dishonesty and misappropriation and were general in nature.

6] In *Security and Finance Private Limited V/s B. K. Bedi and others [1990 SCC OnLine Del. 102]*, the High Court of Delhi has discharged the ex-directors on the ground of absence of specific allegations. The Court held that when the allegations are not specific and details of fraud are not given, then the Court cannot indulge in the fishing or roving enquiry. The enquiry is to be confined to the purpose with which the business of the Company had been carried on and the persons, who were knowingly parties to that act. There has to be positive and specific evidence and pleadings in respect of the individual director.

7] The learned Counsel for the Official Liquidator submits that the proceedings under Sections 543 of the Act of 1956, are not maintainable inasmuch as the investigation report filed by the Chartered Accountant does not disclose the individual acts done by the ex-directors and, therefore, specific liability cannot be ascertained in terms of the provisions under Section 543 of the Act of 1956.

8] So far as proceedings under Section 542 of the Act of 1956 is concerned, it is not the case of the Official Liquidator that the ex-directors have, pending winding-up petition, carried on business of Company with an intent to defraud the creditors or other persons and, therefore, proceedings under Section 542 of the Act of 1956 are not maintainable.

9] In view thereof, Company Application No. 27/1986 is disposed of.

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10] In view of order passed above, what remains is just the pleadings in Company Petition No. 1/1981. The learned Counsel for the Official Liquidator submits that there are no immovable assets and liabilities of the Company, nor are there any creditors.

11] The learned Counsel for the Official Liquidator submits that to the credit of the Company, an amount of Rs. 21,91,221/- is lying as on 31/12/2024, without any liability.

12] Thus, it appears that the liquidator cannot proceed with winding-up of the Company, rather the purpose itself has been served.

13] In view thereof, the Company 'M/s. R.B. Shreeram Durgaprasad Ltd.' stands dissolved in terms of Section 481 of the Companies Act, 1956.

14] Copy of order be served by the liquidator upon the Registrar in terms of sub-section 2 of Section 481 of the said Act.

15] The Official Liquidator shall, after deducting the amount towards administrative expenses and professional charges etc., shall remit balance amount in 'Common pool' account. This exercise be done within two weeks from today and report be filed by 31/1/2025.

16] Stand over to 31/1/2025.

(JUDGE)

Sumit