



COMP.A No. 490 of 2015

IN THE HIGH COURT OF JUDICATURE AT MADRAS

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Reserved on 17.10.2025	Pronounced on 11.11.2025
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THE HONOURABLE MR.JUSTICE N.SENTHILKUMAR

COMP.A No. 490 of 2015 and

COMP.A No. 581 of 2023

in

C.P.No.17 of 2004

The Official Liquidator
High Court, Madras as the Liquidator
of M/s.SIV Industries Ltd.,
(In Liquidation)

Applicant in Com.A.No.490 of 2015

M/s.Fairdeal Supplies Ltd
(CIN U51909WB1987PLC097552)
a Public Limited Company,
Rep. by its Managing Director
Mr.PAWAN KUMAR AGARWAL
(DIN.00060418), having its office at
No.4, B.B.D.Bag (East),
5 Stephen House, 1st Floor,
Kolkatta -700 001, West Bengal.

Applicant in Com.A.No.581 of 2023

Vs

The Offical Liquidator,
High Court, Madras



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As the liquidator of
M/s. SIV Industries Ltd.,
(In Liquidation) Corporate Bhavan,
2nd Floor, No.29 Rajaji Salai,
Chennai-01.

Respondent in Comp.A.No.581 of 2023

PRAYER in COMP.A No. 490 of 2015

Application filed under Section 460(4) of the Companies Act, 1956 r/w. Rule 9, 11 (b) of Companies (Court) Rule, 1959, a) To take the report on record. b) To permit the Official Liquidator to sell the land admeasuring 7.40 Acres situated SIV Quarters Area, Sirumugai Village, Mettupalayam Taluk, Coimbatore District. c) Fix the upset price to be mentioned in the Auction sale notice as this Court deems fit and proper and to meet the charges from out of the funds of the company. d) Nominate/suggest the names of the news papers in which Auction sale notice has to be published and permit the Official Liquidator to meet the advertisement charges from and out of the funds of the company (e) approve the terms and conditions of Auction sale and sale notice to be published annexed with the report.

PRAYER in COMP.A No. 581 of 2023

Application filed under Order XIV Rule 8 of O.S.Rules 1956 r/w. Section 9, 11(b) of the Companies (Court) Rules, 1959, to direct the Official Liquidator to sell 7.40 acres of land of the respondent company in S.F.Nos.38/2A2, 40/2C, 40/3B1B, 40/4, 40/5C2 and 40/6A of Sirumugai Village, Mettupalayam Taluk, Coimbatore District, to the Applicant herein at the price prevailing as on the date of the execution of the sale deed dated 11.05.2012 executed in favour of the applicant.

Applicant in

Mr.Pola Raghunath



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Com.A.No.490 of 2015 : Official Liquidator

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Applicant in Mr.P.H.Aravind Pandian,
Com.A.No.581 of 2023 : Senior counsel
for Mr.M.Rosha Atiq

COMMON ORDER

In continuation and in conjunction with the earlier order passed by this Court on 19.09.2025, the present order is passed.

2.It is brought to the notice of this Court that pursuant to the above said order, paper advertisement was done.

3.Application in COMP.A No. 490 of 2015 has been filed to a) Take the report on record. b) Permit the Official Liquidator to sell the land admeasuring 7.40 Acres situated SIV Quarters Area, Sirumugai Village, Mettupalayam Taluk, Coimbatore District. c) Fix the upset price to be mentioned in the Auction sale notice as this Court deems fit and proper and to meet the charges from out of the funds of the company. d) Nominate/suggest the names of the news papers in which Auction sale notice has to be published and permit the Official Liquidator to meet the advertisement charges from and out of the funds of the company (e) approve the terms and conditions of Auction sale and sale notice to be published annexed with the report.



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4.COMP.A.No.581 of 2023 has been filed to direct the Official Liquidator to sell 7.40 acres of land of the respondent company in S.F.Nos.38/2A2, 40/2C, 40/3B1B, 40/4, 40/5C2 and 40/6A of Sirumugai Village, Mettupalayam Taluk, Coimbatore District, to the Applicant herein at the price prevailing as on the date of the execution of the sale deed dated 11.05.2012 executed in favour of the applicant.

5.Mr.P.H.Aravind Pandian, learned Senior Counsel appearing for the applicant in COMP.A.No.581 of 2023 fairly submitted that the issue involved in the present applications had already been dealt with by a learned Single Judge of this Court in C.A.No.316 of 2013 in C.P.No.17 of 2004, which was dismissed on 17.02.2014. The said order was thereafter challenged before the Division Bench in O.S.A.Nos.200 & 203 of 2014, which was disposed of on 16.12.2014 and when the same was challenged before the Hon'ble Apex Court, the matter was dismissed by the Hon'ble Apex Court with liberty to the petitioner to seek review before the High court by order dated 30.03.2015.

6.The learned Senior Counsel appearing for the applicant in Comp.A.No.581 of 2023, referred to the order passed in Comp.A.Nos.490 of 2015 and 581 of 2023, dated 23.01.2024, which was challenged before the



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Division Bench of this Court in O.S.A.Nos.27 & 52 of 2024, where the following order was passed on 29.10.2024:

“These appeals are directed against the common order dated 23.01.2024 passed by the learned Single Judge in Company Application Nos.490 of 2015 and 581 of 2023 in Company Petition No.17 of 2004, on the Original Side of this Court.

2. The learned Official Liquidator, even though has come up with a figure that a sum of Rs.13,98,00,000/- is payable as market value, including the expenses incurred for advertising the sale on earlier occasion and other incidental charges, she prayed to round off the said sum as Rs.14 crores in view of the delay on account of pendency of proceedings. The learned Senior Counsel appearing for the appellant has agreed to pay a sum of Rs.14 crores as market value.

3. As the parties before this Court have expressed their consent to allow these appeals with a direction to the appellant to pay a sum of Rs.14 crores as consideration for the property which is the subject matter of court auction sale, as directed by the learned Single Judge, the appellant is directed to pay a sum of Rs.14 crores within a period of four weeks from the date of receipt of a copy of this judgment, failing which, the said sum will carry interest at the



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rate of 12% p.a. and the entire payment shall be made by the appellant before the end of eighth week from the date of receipt of a copy of this judgment as undertaken by the appellant before this Court. In case, the appellant fails to pay the amount, it is open to the learned Official Liquidator to proceed further as per the directions of the learned Single Judge dated 23.01.2024.

4. On receipt of the said sum of Rs.14 crores as indicated above, the learned Official Liquidator shall execute the sale deed in favour of the appellant or its nominee. With the above direction, these Original Side Appeals stand allowed. No costs. Connected C.M.Ps. are closed.”

7.Despite several opportunities, the applicant failed to comply with the said directions of the Hon'ble Division Bench of this Court.

8.The learned senior counsel contended that, by virtue of Section 14(1)(b) of the Insolvency and Bankruptcy Code, 2016, the auction cannot be conducted in view of the moratorium applicable to possession and beneficial interest.

9.For the sake of clarity, Section 14(1)(b) of the Insolvency and Bankruptcy Code is extracted hereunder:



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“14. Moratorium.—(1) Subject to provisions of sub-sections (2) and (3), on the insolvency commencement date, the Adjudicating Authority shall by order declare moratorium for prohibiting all of the following, namely:—

(a) the institution of suits or continuation of pending suits or proceedings against the corporate debtor including execution of any judgment, decree or order in any court of law, tribunal, arbitration panel or other authority;

(b) transferring, encumbering, alienating or disposing of by the corporate debtor any of its assets or any legal right or beneficial interest therein;

(c) any action to foreclose, recover or enforce any security interest created by the corporate debtor in respect of its property including any action under the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (54 of 2002);

(d) the recovery of any property by an owner or lessor where such property is occupied by or in the possession of the corporate debtor”

10.The learned Senior Counsel also referred to Section 238 of the IBC,



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which provides that the provisions of the Code shall override any inconsistency with law in force.

“238. Provisions of this Code to override other laws.—The provisions of this Code shall have effect, notwithstanding anything inconsistent therewith contained in any other law for the time being in force or any instrument having effect by virtue of any such law.”

11.It is not in dispute that the issue involved in Comp.A.581 of 2023 has already been decided by the Division Bench against the applicant by order dated 29.10.2024 and the issue has thus attained finality. Despite the finality attained in the earlier proceedings, Comp.No.581 of 2023 has now been filed, raising the same issue afresh and the same is impermissible in law.

12.It is also brought to the notice of this Court that under Rule 272 of the Companies (Court) Rules, and the MCA Notification dated 22.07.2025, the acceptance of the highest bidder is provided for. Moreover, pursuant to the dismissal of SLP.Nos.9005–9006 of 2015, the review applications in Rev.A.Nos.213 & 214 of 2015 were also dismissed by the Hon'ble Division Bench by order dated 01.09.2015.



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13. Though the learned Senior Counsel for the applicant in COMP.A.No.581 of 2023 contended that possession remains with the applicant and hence a fresh valuation ought to be arrived at, this contention cannot be sustained.

14. The point for consideration is whether such contention can be entertained once the matter has attained finality before the Hon'ble Apex Court and after the dismissal of review petitions by the Hon'ble Division Bench of this court. Once the issue has been decided by the highest judicial forum, filing a fresh application on the guise of a new or continuing cause of action is impermissible. Section 14(1)(b) of the IBC cannot come to the aid of the applicant in Comp.A.No.581 of 2023 in this context, especially when the Hon'ble Division Bench and the Hon'ble Apex Court have already rendered final decisions in the matter.

15. It is further noted that the e-auction is also going to be conducted on "AS IS WHERE IS" basis, and all the participants will be fully aware of the nature and condition of the property. The continuous litigation by the applicant in Comp.A.No.581 of 2023 before this Court and before the Hon'ble Apex Court appears to be only a measure to protract the conclusion of sale.



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16. Accordingly, in view of the decision of the Hon'ble Apex Court and the Hon'ble Division Bench, these applications are dismissed. No costs.

11.11.2025

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Index: Yes/No

Speaking/Non-speaking order

Internet: Yes

Neutral Citation: Yes

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To
The Official Liquidator,
High Court, Madras
As the liquidator of
M/s. SIV Industries Ltd.,
(In Liquidation) Corporate Bhavan,
2nd Floor, No.29 Rajaji Salai,
Chennai-01.



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N.SENTHILKUMAR J.

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and COMP.A No. 581 of 2023**

**11.11.2025
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