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Comp.A.No.352 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 07.02.2025

CORAM :

THE HON'BLE MR.JUSTICE SENTHILKUMAR RAMAMOORTHY

Comp.A.No.352 of 2024

in

C.P.No.178 of 2015

1.Praveen Chand Nahar and another

.. Applicants

VS.

1.Gemini Industries and Images Ltd

No.28, New Bangaru colony, K.K.Nagar, Chennai-78 and 2 others

.. Respondents

For Applicants: Mr.N.Sivaprakash

Ms.B.Ambili, Deputy Official Liquidator,

ORDER

By this application, the applicants seek leave under Section 446 of the Companies Act, 1956 to proceed with O.S.No.2442 of 2021, which is pending before the XIX Additional City Civil Court, Chennai.



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2.In the affidavit in support of the application, it is stated that the late father of the applicants, Mr.H.Gouthamchand Nahar, filed C.S.No.472 of 2004 before this Court against Ramraj Kalamandir and the company in liquidation for recovery of a sum of Rs.75 lakhs. While the trial was ongoing, the suit was transferred to the XIX Additional City Civil Court, Chennai and was re-numbered as O.S.No.2442 of 2021. Since the company was ordered to be wound up by order dated 29.01.2016, which is subsequent to the institution of the suit, the present application has been filed.

3.The Official Liquidator submits that there are insufficient funds to the credit of the company in liquidation even for the purposes of engaging counsel to defend the suit.

4.By taking into account the fact that the suit was instituted prior to the presentation of the winding up petition and the fact that the suit is pending before the City Civil Court, Chennai, leave is liable to be granted because the Official Liquidator would be in a position to contest the suit, including by engaging counsel.



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5.In view of the statement of the Official Liquidator that there are insufficient funds, the Official Liquidator is permitted to use funds available in the common pool account for the purposes of defending the suit.

6.This application is allowed on the above terms.

07.02.2025

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SENTHILKUMAR RAMAMOORTHY J.

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