

THE HON'BLE SRI JUSTICE N.V. RAMANA
COMPANY APPLICATION Nos.1874 & 1875 of 2009
in
R.C.C.No.11 of 2001

COMMON ORDER:

Company Application No.1874 of 2005 is filed for the following substantive reliefs:

“i. Permit the Official Liquidator to vary the list of creditors filed in Form No.71 of the Companies (Court) Rules, 1959 as settled by this Hon’ble Court vide order dt.13.06.2008 in C.A.No.558/2008 and to take on record the varied Form No.71 as per Annexure – “A”.

ii. Order the costs of this application do come out of the assets of the company.”

Company Application No.1875 of 2005 is filed for the following substantive reliefs:

“i. Declare as 1st dividend to all the entitled secured creditors & workmen as proposed at para 8 supra, after adjusting the interim payments (if any) made earlier as per Annexure-“C”.

ii. Authorize Official Liquidator to open a separate dividend account in Punjab National Bank and to pay the dividend out of the said account, in terms of Rule 290 of the Companies (Court) Rules, 1959.

iii. Dispense with the publication of notice of dividend in newspapers.

iv. Authorize Official Liquidator to send individual notices of dividend (to individual workmen) and to office bearers of the union (in case of claim filed by Union) in Form No.138 along with 139.

v. Authorize Official Liquidator to fix the schedule for making payment.

vi. Authorize Official Liquidator to transfer the unpaid dividend, if any, remaining in the dividend account, after the expiry of 6 (six) months period to Companies Liquidation Account, in terms of Section 555 of the Companies Act, 1956.

vii. Authorize Official Liquidator to dispense with the production of succession certificate from the Legal

Heirs of deceased creditors as required under Rule 280 of the Companies (Court) Rules, 1959 on production by such legal heir, a Family Member Certificate or such other certificate from concerned authority along with personal indemnity and upon satisfying the right of such legal heir.

viii. Authorize Official Liquidator to take all necessary actions and steps which are incidental to declaration and payment of dividend and to effectively implement the orders of this Hon'ble Court in that regard.

ix. Order that that costs of this application do come out of the assets of the Company (In Liqn.) and to pass such other orders.”

In the affidavit filed in support of C.A.No.1875 of 2009 it is stated that this Court by order dated 26.02.2002 made in R.C.C.No.11 of 2001 ordered for winding up of the applicant company and that during the course of winding up proceedings, the Official Liquidator has taken possession of the assets of the company in liquidation, sold them and realized a total sum of Rs.255.00 Lakhs. It is also stated that this Court in C.A.No.986 OF 2005, by order dated 28.09.2005, directed the Official Liquidator to invite the claims from the creditors of the company, pursuant to which, a notice in Form No.63 was published in Newspapers fixing the last date for receipt of claims as 06.12.2005. In response to the said publication, claims were received from the creditors of the company including the claim from workmen union as well as the claims from other individual workmen, and were adjudicated by the Official Liquidator except the claim of ICICI, since no proof was submitted by it. Questioning the rejection of its claim, ICICI Bank filed Appeal No.2/2009 and this Court directed the Official Liquidator to re-adjudicate the claim of the said Bank. Thereafter, the Official Liquidator called upon ICICI Bank to produce further evidence and on receipt of the same, they have completed the adjudication by issuing Form No.69, dated 01.09.2009 admitting an amount of Rs.18,30,370.23 ps. as secured debt. It is further stated that under Rule 168 of the Companies (Court) Rules, 1959 the list of creditors, as

certified by the Official Liquidator and filed before this Court, shall not be varied except under the orders of this Court. Hence, these applications are filed with the above reliefs.

Having regard to the above stated facts and circumstances, the applications are ordered, as prayed for.

N.V.RAMANA, J

Dated: 27.10.2009

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