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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ CO.PET. 36/2013, CA No.1856-57/2015, 3266/2015, 826/2017
OLR Nos. 137-138/2016, 204-205/2016, 276/2016 & 98/2017

RE- M/S CATMOSS RETAIL PVT. LTD. Petitioner
Through: Mr. Jitendra Kumar, Adv. for applicant
in CA No.551/2016
Mr. Neeraj Kr. Gupta, Adv. for Applicant in
CA No.324/2017
Mr. Kamal Garg, Adv. for Applicant in CA
No. 51/2017

versus

....
..... Respondent
Through: Mr. Mayank Goel, Adv. for OL
Mr. Sanjeev Narula, CGSC for SFIO
Mr. Anil Mittal, Ms. Komal Aggarwal, Adv. for
R-3 & R-4 in CA No.1856/2015 and for R2, R3,
R4 and R5 in CA No.1857/2015
Mr. Suryakant Singla, Mr. Virender Kumar Singh,
Ms. Shivani, Adv. for R-1 in CA 1857/2015

CORAM:
HON'BLE MR. JUSTICE YOGESH KHANNA

ORDER

% **10.07.2017**

CA No.551/2016

This application is filed by the State Bank of India stating inter alia that in exercising the powers under the SARFAESI Act, 2002, the applicant bank through its authorised officer has taken over the actual physical possession of the mortgaged property as also the hypothecated stocks and goods lying in the shop by Possession Notices dated 26.02.2014 and inventory of goods has been prepared.



The applicant Bank vide letter dated 21.12.2015 has intimated to the OL of e-auction sale notice to be held 19.01.2016. It is submitted that the permission was sought from the OL to sell the stocks and goods with a request that the auction sale consideration received would be remitted to the OL but the OL has not responded to the said request. It is submitted that the value of the hypothecated goods and stocks lying in the premises is being depreciated day by day. The learned counsel for the OL has no objection to the sale of the hypothecated goods in the association of the OL. The application stands allowed. The money so realized shall be deposited with the OL in the account of the company.

CA 1343/2016

It is submitted by the learned counsel for the OL that the company in liquidation had many properties as stated in paras 9, 10 and 11 of the application, they have deployed the security guards of different agencies for which the payment is due to be made to such agencies for different periods. It is stated that 21 guards are deployed for 24 hours in the seven premises stated in para 9; 12 guards are deployed for 24 hours in four premises stated in para 10 and three guards are deployed for 24 hours in the premises stated in para 11 and that different amount of bills are pending and hence it is requested to permit the OL to release an amount of Rs.14,30,262/- to Manasavi Security Services, an amount of Rs.15,07,766/- to P.S. Security Services Pvt. Ltd. and an amount of Rs.5,57,875/- to Kat Eye Security Services against their outstanding bills for the aforesaid period from the Common Pool Fund subject to the adjustment of the



same to the extent of Rs.8,08,318/-, the sum already received from the landlords/franchises towards security expenses and balance from the sale proceeds of the company in liquidation. Let the payments be made to the security agencies on due verification of bills by the OL. The prayer to this effect stands allowed. The OL is also permitted to make payment of the bills for the further period after proper examination as and when the same are received and that for this purpose the OL may take a loan from the Common Pool Fund and in the absence of sufficient funds, of course, after getting reimbursement from the secured creditors. The application stands disposed of.

CA No.324/2017

This application is for de-sealing of Shop No.19, Ground Floor, Rave Moti Mall, Kanpur (Uttar Pradesh) on the ground that this premises was given on rent by the applicant to the company in liquidation. It is admitted by the learned counsel for the Official Liquidator that the security deposit to the tune of Rs.1,65,870/- has been deposited by the landlord with the OL and joint inventory has already been prepared and the said goods need to be shifted in the premises as identified by the landlord. Let the needful be done and the possession of the premises be handed over to the landlord after de-sealing it.

The application stands disposed of.

CA No.51/2017

This application is moved by the applicant for seeking permission of this Court to continue with the Complaint Case No.2905/1/15, 2906/1/15, 2908/1/15 and 2911/1/15 as mentioned in



para 5 of the application under Section 138 read with Section 142 of the Negotiable Instruments Act against the Respondent and its directors pending before the learned Metropolitan Magistrate. The Official Liquidator has not filed any reply to this application. The Provisional Liquidator in the present case was appointed on 28.02.2013 and the complaint was filed after the appointment of the Provisional Liquidator. Mr. Mayank Goel, learned counsel for the OL submits that without considering any aspect of the matter either in fact or in law, he has no objection in case the proceedings are continued before the learned MM subject to the condition that the OL who has taken over the assets and control of the company pursuant to the orders passed by this Court on 28.02.2013 be exempted from appearance and further no punitive order against the company or the OL be executed without the prior permission of this Court. Subject to the above, the applicant is permitted to proceed with the complaints bearing No.2905/1/15, 2906/1/15, 2908/1/15 and 2911/1/15.

The application stands disposed of.

CA No.52/2017

This application is moved by the applicant for seeking permission of this Court to continue with the Complaint Case No.2913/1/15, 2914/1/15 and 2912/1/15 as mentioned in para 3 of the application under Section 138 read with Section 142 of the Negotiable Instruments Act against the Respondent and its directors pending before the learned Metropolitan Magistrate. The Official Liquidator has not filed any reply to this application. The Provisional Liquidator in the present case was appointed on 28.02.2013 and the



complaint was filed after the appointment of the Provisional Liquidator. Mr. Mayank Goel, learned counsel for the OL submits that without considering any aspect of the matter either in fact or in law, he has no objection in case the proceedings are continued before the learned MM subject to the condition that the OL who has taken over the assets and control of the company pursuant to the orders passed by this Court on 28.02.2013 be exempted from appearance and further no punitive order against the company or the OL be executed without the prior permission of this Court. Subject to the above, the applicant is permitted to proceed with the complaints bearing No. 2913/1/15, 2914/1/15 and 2912/1/15.

The application stands disposed of.

CA No.53/2017

This application is moved by the applicant for seeking permission of this Court to continue with the Complaint Case No.2990/1/15 and 261/1/16 as mentioned in para 4 of the application under Section 138 read with Section 142 of the Negotiable Instruments Act against the Respondent and its directors pending before the learned Metropolitan Magistrate. The Official Liquidator has not filed any reply to this application. The Provisional Liquidator in the present case was appointed on 28.02.2013 and the complaint was filed after the appointment of the Provisional Liquidator. Mr. Mayank Goel, learned counsel for the OL submits that without considering any aspect of the matter either in fact or in law, he has no objection in case the proceedings are continued before the learned MM subject to the condition that the OL who has taken over the



assets and control of the company pursuant to the orders passed by this Court on 28.02.2013 be exempted from appearance and further no punitive order against the company or the OL be executed without the prior permission of this Court. Subject to the above, the applicant is permitted to proceed with the complaints bearing No. 2990/1/15 and 261/1/16.

The application stands disposed of.

CA No. 520/2017

Rejoinder has been filed.

List on 26th October, 2017 for arguments.

YOGESH KHANNA, J

JULY 10, 2017
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