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

+ W.P.(C) 6238/2019, CM APPL. 3123/2021, CM APPL. 10800/2021,
CM APPL. 20685/2021, CM APPL. 33895/2021, CM APPL.
33896/2021 & CM APPL. 34574/2021

MODI SPINNING AND WEAVING MILLS COMPANY LTD.

..... Petitioner

Through: Mr. Nikhil Singhvi and Mr. Mohit
Seth, Advocates.

versus

UNION OF INDIA AND ORS.

..... Respondents

Through: Mr. Rakesh Kumar, CGSC along with
Mr. Abhishek Khanna, G.P. and Mr.
Akhilesh, Advocates for R-1.

Mr. Anil Sapra, Senior Advocate with
Ms. Jayashree Shukla Dasgupta,
Advocate for R-4.

Ms. Jayashree Shukla Dasgupta,
Advocate for R-7.

Mr. Rajat Wadhwa and Mr. Devanshu
Chauhan and Mr. Aditya Varun,
Advocates for R-10.

Mr. Ramakant Kashyap, Advocate for
R-11.

Mr. Gaurav P. Pathak and Mr. Pawan
Upadhyay, Advocates for R-14.

Mr. Pradeep Misra and Mr. Daleep
Dhyani, Advocates for R-16.

Mr. Jayant K. Mehta, Sr. Advocate
with Mr. Adhish Sharma, Advocate
for applicant in CM. APPL. No.
3122/2021.



CORAM:

HON'BLE MR. JUSTICE NAJMI WAZIRI

HON'BLE MR. JUSTICE VIKAS MAHAJAN

ORDER

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21.07.2022

The hearing has been conducted through hybrid mode (physical and virtual hearing).

W.P.(C) 6238/2019, CM APPL. 3123/2021, CM APPL. 10800/2021, CM APPL. 20685/2021, CM APPL. 33895/2021, CM APPL. 33896/2021 & CM APPL. 34574/2021

1. The Registrar had given last and final opportunity to respondent nos. 3,5,6,12,13,15 & 16 to file their counter-affidavits within a certain time. They defaulted therefore their right to file counter-affidavits was closed on 11.02.2022.
2. Respondent no. 4 has not filed a reply but supports the petitioner.
3. Respondent no. 10 seeks one last opportunity to file a reply. Let the same be filed within two weeks.

CM APPL. 31878/2022 (by R-10 for appointment of Local Commissioner)

4. Mr. Rajat Wadhwa, the learned counsel for the applicant/respondent no. 10-Union of Workmen submits that about Rs.5.54 crores is due from the petitioner to the workmen since 2004. The aforesaid dues are admitted. The workmen have not been paid their dues for the past 18 years, which is unjustified. They are not as strong, financially or otherwise like their employers, to pursue their remedies and simultaneously suffer their deprivation. To secure their dues, the applicants/R-10 desire that *status quo* apropos assets of the petitioner be maintained.



5. In terms of the scheme sanctioned by the Board for Industrial and Financial Reconstruction (“BIFR”), certain properties determined as the residual share and assets of the petitioner company are listed in Column-3 Annexure-III of the Scheme (page no. 113 and pdf page no.125 of the writ petition). On a specific query put to the learned counsel for the parties as to: whether there is any legal impediment in the sale of the said properties, for discharging the dues towards the workmen? The answer of all counsel is in the negative. That being the position, the assets of the residual property could well be disposed-off, as soon as possible to defray the long overdue amounts to the workmen. Surely, the second and third generation of the workmen are entitled to the benefits of their parents’ remuneration. The past two COVID years have especially debilitated and prejudice the social and financial conditions of most people, particularly the economically weaker sections of society. In view of the above, till the next date, the assets of the company will not be encumbered without permission of the court.
6. The court is assured by the petitioner and respondent no. 4 that in the interim they will make every endeavour to pay the workmen their pending monies.
7. Mr. Wadhwa insists that the outstanding amounts be paid with interest. He wishes to file a computation of the amounts due to the workmen. Let it be so done.
8. Issue notice. Notice is accepted by the learned counsel for their respective non-applicants.
9. Reply and rejoinder, if any, be filed before the next date.



10. List on 30.08.2022.

CM APPL. 32006/2022 (by R-10 for modification/ clarification of order dt. 25.02.2022 & 07.03.2022)

11. In view of the above, this application has become *infructuous* and is disposed-off accordingly.

CM APPL. 3122/2021 (by applicant for impleadment)

12. Mr. Jayant Mehta, the learned Senior Advocate for Modi Industries Limited submits that the property identified as 'Modi Bhawan' at page 116 does not belong to the petitioner company, therefore, it would have no right to encumber it. This, however, is disputed by the learned counsel for the petitioner and respondent no. 4.

13. List on 30.08.2022.

NAJMI WAZIRI, J

VIKAS MAHAJAN, J

JULY 21, 2022

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