

Rajeshri Aher

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION**

**OFFICIAL LIQUIDATOR REPORT NO.61 OF 2023
IN
COMPANY PETITION NO. 883 OF 2009**

Official Liquidator Of New Haven Steel Ball
Corporation Pvt. Ltd.(In Liquidation)

...Applicants

Versus

M/S. D.I. Steel Pvt. Ltd.

...Respondent

....

Mr.Shanay Shah, Advocate for Official Liquidator.

Mr.Shaturghna Chauhan, Dy.O.L., present.

Ms.Sonali Punekar, for Ex - Director Mitesh Mehta.

Mr.Rohan Sawant a/w. Ms.Nidhi Salian i/b. M/s.Apex Law Partners, for
Ex-director Milan Mehta.

Mr.S.P. Kanuga, Advocate for Creditor.

Ms.Sheela Metakari i/b. Mr.Sunil Sonawane, Advocate for MCGM.

Mr.Sachin Sarvade, Sub - Eng. (B & F), L Ward, present.

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**CORAM : RAJESH S. PATIL, J.
VACATION COURT**

DATED : 9th MAY 2023

P.C.:

1 This Official Liquidator's ("OL", for short) Report is filed before the vacation Court. Advocate for the Official Liquidator is pressing only prayer cause Clause (f), which reads as under:

“(f) Whether this Hon’ble Court would be please to direct the office of the Assistant Commissioner ‘L’ ward, Brihanmumbai Municipal Corporation to take appropriate steps or to demolish/pull down the said highly dilapidated building to avoid any untoward incident;”

2 Advocate for the OL states that the Corporation has issued notice under Section 353(b) the Mumbai Municipal Corporation Act, 1888, as dilapidated building and is likely to fall at any time. He further states that the corporation's report dated 31st March 2023, which is annexed as Exhibit-E to the OL report states that adjacent to the subject building there is a Gundecha Onclave commercial building premises, newly constructed shell petrol pump and also there is Sakhivihar road which is having heavy vehicular traffic/pedestrian route and there is very high possibility to cause danger to human life in the future. The building is ground plus four storied Hence, to avoid any untoward incident, it is necessary to demolish the said building which is very dangerous as of now. Mr.Sawant appearing for Milan Mehta Ex-director of the company under liquidation, on instructions, states that his client is ready to comply with the directions as given by the Corporation. According to him, if some untoward incident happens, he will held liable. He further states that his client is ready to demolish the building since there is a danger to the life of the human beings who are using the said road, and the people who are staying in the adjacent building.

3 However, Ms.Sonali Punekar appearing for Mitesh Mehta, Ex-director of the company under liquidation, on instructions, opposes the corporation's action saying that the Corporation should first appoint structural auditor, and the photographs of the building should be first submitted to the Court. According to her, the building is

surrounded by compound wall, and there is no danger to any human being, as there is nobody staying in the building. Advocate Mr.Kanuga appearing for the creditor states that he is supporting Ms.Sonali Punekar's submission on the grounds that he does not have any knowledge about the action taken by the Corporation. Advocate Ms.Sonali Punekar also states that there are movable assets in the subject building.

3 Advocate for the Corporation, on instructions from the Officer Mr.Sarvade, Sub Eng. (B & F) L ward, states that the Corporation intends to demolish the building immediately if the owner of the building does not do their work of demoliting the building. Advocate for the Corporation also points out the photograph of the subject building at page 69 of the OL report. Advocate for the Corporation states that the photographs show that the notice has been affixed on the site.

4 I have gone through the OL's report, Corporation's report and I have also been shown the photographs which are produced by the parties. Once the Corporation has decided and taken over a decision that the building is in a dilapidated condition, by various judgment of this Court, it has been held that Court cannot sit on Appeal on such kind of order/directions passed by the Corporation, and the only issue will be of tenants in the subject building, their rights have to be protected. As one of the director of the company has come forward and

is ready to demolish the building, Corporation should not object such person and grant him all assistance for demolition of the building. Mr.Sawant agrees that an inventory would be necessary to be done as per law before demolition of the building. Mr.Sawant states that his client will take at least six weeks to demolish the entire building. Time, as prayed is granted to Mr.Sawant's client. But, before demolition, Mr.Sawant states that once OL does inventory. His client will immediately barricade the whole compound in which the dilapidated building is standing so that no untoward incident happens. Advocate for Corporation states that if within six weeks Mr.Sawant's client does not comply with the demolition of the building, the Corporation will be permitted to take further steps for demolition of the building. The Corporation is hereby permitted after the period of six weeks is over, they will appoint contractor for demolition of the building.

5 Mr.Sawant also admits that when inventories done, notice will be issued to all parties.

6 Mr.Shah states that inventory of all the movables lying in the building will be done within a period of one week from today in the presence of all concerned. Such notice will be given atleast 24 hours before taking such steps.

7 The Liquidator to bear the costs of transferring the movable and storing the same on the common pool fund.

8 For remaining prayers as stated in the OL's Report, the parties can file their replies within a period of four weeks from today and the said OL report to come on Board on 14th June 2023.

(RAJESH S. PATIL, J.)