

**Comp.A.No.116 of 2020**

**&**

**C.P.No.57 of 1998**

**M.SUNDAR.J.,**

Mr.M.Aravind Subramaniam, learned counsel for sole applicant in the captioned application and Mr.Karthik Seshadri, learned counsel on behalf of 'Official Liquidator attached to this Court' ('OL' for the sake of brevity), who is the lone respondent in the captioned application, are before me in this web-hearing on a videoconferencing platform. Learned counsel for applicant submits that captioned application is under Section 446(1) and 446(2) of 'The Companies Act, 1956' (hereinafter 'said Act' for the sake of brevity) with a prayer to grant leave to the applicant to continue with the trial of suit C.S.No.837 of 1998 on the file of Original Side of Madras High Court.

2. Learned counsel for applicant submits that the aforementioned suit is a title suit and it is not a money suit. On this basis, learned counsel submits that there can be no impediment in acceding to the prayer in the captioned application.

3. Responding to the aforesaid submission, learned counsel for Official Liquidator made four submissions, a summation of which is as follows:

a) The plaintiff in the suit is an Association and an Association cannot claim title;

b) The suit property is outside the territorial jurisdiction of Original Side of Madras High Court;

c) The date of institution of the suit and Company Petition are relevant. To be noted, the plaint is dated 09.11.1998, but the date of presentation is not available. Further to be noted, this Court is informed that the date of presentation of Company Petition i.e., C.P.No.57 of 1998 is 23.12.1997;

d) Reliance was placed on *Sudarshan Chits (I) Ltd., Vs. O.Sukumaran Pillai* case reported in (1984) 4 SCC 657 and submitted that all the claims should be before this Company Court in the light of interpretation to section 446(2)(b) and 446(3) of said Act.

4. Be that as it may, this Court is informed that learned counsel for OL has not been favoured with the copy of the typed-set filed by the

applicant. Before this Court, only one typed-set of papers dated 10.03.2020 has been placed as part of the case file. This Court is informed that there is another typed-set filed by the applicant dated 11.01.2021.

5.Learned counsel for applicant and Registry to do the needful by next listing.

List on 12.02.2021.

29.01.2021

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