

OLR-264/2016

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

OLR NO. 264 of 2016
in

APPLICATION NO. 94 OF 2014

IN

COMPANY PETITION NO. 947 OF 2014

ALONGWITH

COMPANY APPLICATION NO. 95 OF 2014

IN

COMPANY PETITION NO. 948 OF 2014

In the matter of the Companies Act, 1956;

And

In the matter of winding-up of

M/s. Mantri Realty Ltd. (In Prov. Liqn.)

SUBMITTED TO THE HON'BLE JUDGE TAKING COMPANY MATTERS:-

The Official Liquidator as the Provisional Liquidator of M/s. Mantri Realty Ltd. (hereinafter referred to as "the company") having his office at 5th floor, Bank of India Bldg., M. G. Road, Fort, Mumbai – 400 023 most respectfully submits his report as under :-

2. That the Official Liquidator submits that Hon'ble Court vide order dated 04.02.2015 passed by Company Application (L.) No. 596 of 2014 in Company Petition No. 947 of 2014 along with Company Application (L.) No. 597 of 2014 in Company Petition No. 948 of 2014 appointed the Official Liquidator as Provisional Liquidator of M/s. Mantri Realty Ltd.



with usual powers under the Companies Act, 1956. Subsequently, the Company Application (L) No.596 of 2014 and 597 of 2014 are renumbered as Company Application No.94 of 2014 and 95 of 2014 respectively.

2. That the Official Liquidator submits that in pursuance of the direction(s), the team(s) of the Official Liquidator has taken possession of various assets of the company at Mumbai, Bangalore, Gwalior and Sholapur in swift hourly speed, followed by filing Report No.181/2016 dated 25.5.2016.

3. That the Official Liquidator submits that this company had various flats/construction projects in the above cities. This Hon'ble Court vide detailed order dated 16.6.2016 and 22.6.2016 desired in-depth examination of various flat purchase agreement(s), its payment, ownership, ownership of the company, particular regarding Mumbai and Bangalore respectively, besides other directions. For this, hundred(s) of agreements required/needs to be verified and examined from the records of the company, in possession of the Official Liquidator, for firming up a view in the matter inclusive of multiple claims, agreement(s) prior to appointment of the Official Liquidator etc.

4. That the Official Liquidator submits that the above exercise would be required for another two cities i.e. Sholapur and Gwalior, examination of which is yet to start.

5. That besides above there is a flood of company application(s), Summons from the Hon'ble Subordinate Court(s) warranting appearance of the Official Liquidator in person, various dak/correspondence

warranting prompt reply/correspondence, proceedings before various Court/ Tribunal/ Forum requiring reports, replies, affidavit, written statements, status report etc.

6. Further Statement of Affairs under section 454 of the Companies Act, 1956 is expected to be filed shortly, the examination of which will require hourly disposal for recovery of the debts inclusive of issuing numerous recovery notices and filing of recovery suits etc.

7. That apart from the above, the Official Liquidator has to dispose of the assets so taken into possession, invite the claims in the newspapers and settlement of claims after adjudication and finally dissolution under Companies Act, 1956 and Companies (Court) Rules, 1959 which will again require a jet speed disposal.

8. The detail of *sub judice* proceeding(s) so far, is detailed as under:

Sr. No.	Particulars	Filed and Pending	Pleadings to be filed
1	32 Company Applications	High Court Bombay	To appear and file Affidavit in Reply
2	1 Writ Petition	High Court, Bombay	To appear and file Reply/Reports
3	1 suit	High Court Bombay	To appear and file Written Statement/Reply
4	3 SC Suits	City Civil Court, Bombay	To appear and file Written Statement/Reply
5	20 Criminal Complaints u/s 138 of the Negotiable Instruments Act, 1881	Various Metropolitan Magistrate Court at Bombay	To appear and file Reply/Report
6	1 Appeal in RAD Suit	Small Causes Court, Bombay	To appear and file Reply/Report
7	2 RAD Suits	Small Causes Court, Bombay	To appear and file Reply/Report
8	1 CHS in Summary Suit	High Court Bombay	To appear and file Reply/Report



9	1	Arbitration Application	High Bombay	Court	To appear and file Reply/Report
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The statement of various cases pending before various Courts are annexed herewith and marked as **Exhibit "A"**.

9. That the Official Liquidator submits that it is relevant to mention that the processing of the company in question (inclusive of outdoor assignments) is being looked after by an Assistant Official Liquidator, One Upper Division Clerk, three Company Paid Assistants only, who are also responsible for processing of 140 such companies, whereas a dedicated team of atleast 10 secretarial assistants is desired to cater the time bound disposal of the Court direction besides Legal and Accounting Expert.


In view of above this Hon'ble Court may be pleased to permit the Official Liquidator to solicit the services of following to assist the Hon'ble Court in time bound/at call manner in the interest of the workers and creditors of the company (In Prov. Liqn.) -

- i) One Senior Standing Counsel
- ii) Two briefing Counsels
- iii) One Drafting Counsels
- iv) Two Qualified Company Secretary-(on contractual basis)
- v) Two stenographers- (on contractual basis)
- vi) One data entry operator-(on contractual basis)

10. That the Official Liquidator submits that the following Suit/Arbitration proceedings are pending before other courts. As the matter relates to the properties of the company (In Prov. Liqn.) situated at

Mantri Park, Mantri Serene, Mantri Royale. This Hon'ble Court may be pleased to transfer the following Suit/Arbitration proceeding under jurisdiction:-

1	Suit No. 272 of 2016	M/s. Classicon Projects (I.) Pvt. Ltd. (Contractor) Versus i)M/s. Mantri Realty Ltd. ii) Mrs. Sarita Mantri iii)Mr. Sunil Mantri	This suit relates to the flats at Mantri Royale and Mantri Premero at Banglore This matter is pending before Hon'ble Justice S.J. Kathawalla.
2	Arbitration Petition (L.) No. 113 of 2016 Renumbered as Arbitration Petition No. 298 of 2016	IL & FS Trust & Company Versus i) Suyog Realtors Pvt. Ltd. ii) Official Liquidator of Mantri Realty Ltd. iii)Sunil Mantri iv) Sarita Mantri v) Sunil Mantri HUF	This matter relates to all properties and assets of Respondent No. 1 to 5 including leasehold land situated at Butibori Industrial Area, MIDC, Nagpur Wardha High Way at Nagpur. ii) Direction to Respondent No. 1 to 5 to disclose on oath the details of all the attachable movable and immovable properties and assets including cash and bank balance held by the Respondents and other consequential prayers
3	Arbitration Application No. 120 of 2014	M/s. Ram Narayan Construction Versus M/s. Mantri Realty Ltd.	To appoint any retired Judge of the Hon'ble High Court or such other person as an Arbitrator to adjudicate the disputes pending between the parties relating to contractual dues for painting work of Mantri Park.



			This matter pending before Justice K.K. Tated.
4	Arbitration Application No. 228 of 2015	IL & FS Trust Company Ltd. & others Versus i) Suyog Realtors Pvt. Ltd. ii) Mantri Realty Ltd. iii) Mr. Sunil Mantri iv) Mrs. Sarita Mantri v) Sunil Mantri HUF	This is regarding dispute between parties relating to Buy Back of shares of the company (In Liqn.). This matter is pending before Hon'ble Justice S. J. Kathawalla.

11. That the Official Liquidator further submits that this office has received notice i.e. total 27 cases under section 138 of the Negotiable Instruments Act filed by various Complainants before various Metropolitan Magistrate Court. In this regard it is submitted that all the cases under section 138 of the Negotiable Instruments Act relates to dishonour of cheques issued by ex-directors of the company prior to appointment of Official Liquidator as the Provisional Liquidator/Liquidator and hence the ex-directors of the company are actually personally liable in such matters. However in most of cases Metropolitan Magistrate Court requires personal presence of the Official Liquidator/representative of Official Liquidator. The Official Liquidator is already short of staff and is not able to attend each and every matter at various Metropolitan Magistrate Court. Further the personal presence of Official Liquidator at Metropolitan Magistrate derail day to day functioning of High Court/Office of the Official Liquidator and also the costs the exchequer.

In view of above the Official Liquidator/representative of Official Liquidator kindly be exempted from personal appearance in the cases under section 138 of Negotiable Instrument Act before various Metropolitan Magistrate in the matter in hand and such similar matter.

In the circumstances the Official Liquidator humbly prays for the directions on the following prayers:-

(a) In view of para 9 above of this report, this Hon'ble Court may be pleased to permit the Official Liquidator to solicit the services of following to assist the Hon'ble Court in time bound/at call in the interest of the workers and creditors of the company (In Prov. Liqn.) -

- i) One Senior Standing Counsel
- ii) Two briefing Counsels
- iii) One Drafting Counsels
- iv) Two Qualified Company Secretary-(on contractual basis)
- v) Two stenographers- (on contractual basis)
- vi) One data entry operator-(on contractual basis)

(b) In view of para 10 above of this report, this Hon'ble Court would be pleased to transfer the above Suit/Arbitration proceeding 1 to 4 as mentioned in para 10 under his jurisdiction

(c) In view of para 11 above of this report, this Hon'ble Court may kindly exempt the Official Liquidator/representative of Official Liquidator from personal appearance in the cases under section 138 of Negotiable Instrument Act before



various Metropolitan Magistrate in the matter of M/s. Mantri Realty Ltd. and such similar cases against companies (In Liquidation).

And

(d) Passed such other order as this Hon'ble Court may deem fit and proper.

Dated this 3rd day of August, 2016



OFFICIAL LIQUIDATOR

D) IN THE HIGH COURT OF BOMBAY			
Sr. No.	Case No.	Name of the parties	Summary of cases
1	Summons for Judgement No. 38 of 2014 In Summary Suit No. 387 of 2014	Daryani (Indo Saigon) Construction Pvt. Ltd. Versus Sunil Mantri Realty Ltd.	The said Suit is filed for recovery of an amount of Rs.18,12,00,000/- with further interest on principal amount of Rs.12,00,000/- alongwith interest @18% p.a. thereon commencing from 01.03.2014 till payment and/or realization towards repayment of loan amount and cost of the said suit. C.A. (L.) No. 114 of 2016 filed to grant leave to Applicant to proceed with the Suit No. 387 of 2014 filed in the High Court, Bombay. Suit papers not available. This matter is pending before Hon'ble Justice K.R. Sriram.
2	Chamber Summons No. 875 of 2016 In Execution Application (L.) (2338) of 2015 In Summary Suit No. 843 of 2013	M/s. Ashok Commercial Enterprises Versus Mantri Realty Ltd. And Official Liquidator	The said Suit under the Provisions of order XXXVII of Rule (2) of the Civil Procedure Act, 1908 before this Court against the Defendant for recovery of sum of Rs.78,52,84,000/- together with interest towards the loan amount as prays for therein The Chamber Summons filed to allow to join and implead the proposed Respondent i.e. Official Liquidator as

			Respondent in the Execution Application (L.) (2338) of 2015 taken by Applicant. Suit papers not available. This matter is pending before Hon'ble Justice K.R. Sriram.
3	Suit No. 272 of 2016	M/s. Classicon Projects (I.) Pvt. Ltd. (Contractor) Versus i) M/s. Mantri Realty Ltd. ii) Mrs. Sarita Mantri iii) Mr. Sunil Mantri	Suit is filed:- -for paying to the plaintiff Rs.9.17 Crores alongwith interest to the plaintiff -for transferring the flat No. T1-003, T1-005 of Mantri Royale and D-004 of Mantri Premero, Banglore against his dues of Rs.1,79,42,859/- - for transfer of flats T-1-006 of Mantri Royale, D-003 of Mantri Premero Banglore against his dues of Rs. 10648600/- -for allotting other flats in Mantri Premero & Royale at Banglore against his dues of Rs. 70,93,163/- or -for allotting the Flat in Mantri Serene against the abovesaid dues instead of Mantri Royale and Mantri Premero. This matter is pending before Justice S.J. Kathawalla.
4.	Writ Petition (L.) No. 923 of 2016	i) Mantri Park Co.op. Hsg. Society Ltd. Versus i)The Muncipal Corporation of Gr. Mumbai	To issue Writ of mandamus of Writ of Certiorari and/or appropriate writ and directions directing to the Respondent 1 & 2 to forthwith withdraw the final notice dated

		ii) Assistant Assessor & Collector Municipal Corporation for Greater Bombay iii) Mantri Reality Ltd.	28.03.2016 issued by Responded No. 1 & 2 to the Petitioner for disconnection of Water Supply for non payment of water taxes of Mantri Park and other consequential prayers. This matter pending before Hon'ble Justice M.S. Sanklecha & A.K. Menon.
5.	Arbitration Petition (L.) No. 113 of 2016 Renumbered as Arbitration Petition No. 298 of 2016	IL & FS Trust Company & Another Versus i) Suyog Realtors Pvt. Ltd. ii) Official Liquidator of Mantri Reality Ltd. iii) Sunil Mantri iv) Sarita Mantri v) Sunil Mantri HUF	i) To appoint receiver in respect of all the properties and assets of Respondent No. 1 to 5 including leasehold land situated at Butibori Industrial Area, MIDC, Nagpur Wardha High Way at Nagpur. ii) Direction to Respondent No. 1 to 5 to disclose on oath the details of all the attachable movable and immovable properties and assets including cash and bank balance held by the Respondents and other consequential prayers
6.	Arbitration Application No. 120 of 2014	M/s. Ram Narayan Construction Versus M/s. Mantri Realty Ltd.	To appoint any retired Judge of the Hon'ble High Court or such other person as an Arbitrator to adjudicate the disputes pending between the parties relating to contractual dues for painting work of Mantri Park. This matter pending before Justice K.K. Tated.
7.	Arbitration Application No. 246 of 2014	M/s. Ram Narayan Construction Versus	To appoint any retired Judge of the Hon'ble High Court or such other person as an

		M/s. Mantri Realty Ltd.	Arbitrator to adjudicate the disputes pending between the parties relating to contractual dues for painting and aluminum work of Mantri Park. Arbitrator appointed vide order dated 17.03.2015 passed by Justice S.J. Kathawalla.
8.	Arbitration Application No. 228 of 2015	IL & FS Trust Company Ltd. & others Versus i) Suyog Realtors Pvt. Ltd. ii) Mantri Realty Ltd. iii) Mr. Sunil Mantri iv) Mrs. Sarita Mantri v) Sunil Mantri HUF	This is regarding dispute between parties relating to Buy Back of shares of the company (In Liqn.). This matter is pending before Hon'ble Justice S. J. Kathawalla.

II) In the Bombay City Civil Court at Bombay

1.	S.C. Suit No. 2776 of 2010	Sunil Mantri Realty Ltd. Versus Mr. Khimchand Kothari	To declare the Memorandum of Understanding dated 30.7.2007 is valid and subsisting and binding upon the Defendant in respect of the Suit premises including Flat No. 12-A situated at C.S. No. 260 of Malbar Hill Division, 100, Walkeshwar Road, Mumbai - 400 006 and other consequential prayers. This relates to Walkeshwar Ruby Terrace Co. Housing Society Project.
2.	S.C. Suit No. 2777 of 2010	Mantri Realty Ltd. Versus	To declare the Memorandum of Understanding dated

		i) Mrs. Kanchanben Khimchand Kothari	30.07.2007 is valid and subsisting and binding upon the Defendant in respect of the Suit premises including Flat No. 6B situated at C.S. No. 260 of Malbar Hill Division, 100, Walkeshwar Road, Mumbai – 400 006 and other consequential prayers. This relates to Walkeshwar Ruby Terrace Co. Housing Society Project.
3.	S.C. Suit No. 2778 of 2010	Mantri Realty Ltd. Versus Mr. Khimchand Kothari	To declare the Memorandum of Understanding dated 30.7. 2007 is valid and subsisting and binding upon the Defendant in respect of the Suit premises including Flat No. 12B situated at C.S. No. 260 of Malbar Hill Division, 100, Walkeshwar Road, Mumbai – 400 006 and other consequential prayers. This relates to Walkeshwar Ruby Terrace Co. Housing Society Project.
III) In the court of Small Causes at Bombay			
I.	Appeal No. 409 of 2014 In Exhibit “10” In RAD Suit 350 of 2011	Walkeshwar Ruby Terrace Co.op. Housing Society Ltd. Versus i) Manjuladevi R. Gupta & Ors. ii) Mrs. Shashikala Suresh Gaokar iii) M/s. Sunil Mantri Realty Ltd.	Appeal against the order passed in RAD Suit No. 350 of 2011 pending before Small Causes Court, Bombay regarding the premises at Ground Floor at Vitthal Niwas, 100, Walkeshwar Road, Mumbai. This relates to Walkeshwar Ruby

		ii) Mrs. Shashikala Suresh Gaokar iii) M/s. Sunil Mantri Realty Ltd.	Walkeshwar Road, Mumbai. This relates to Walkeshwar Ruby Terrace Co. Housing Society Project.
2.	RAD Suit No. 350 of 2011	Manjuladevi R. Gupta & Ors Versus i) Walkeshwar Ruby Terrace Co.op. Housing Society Ltd. ii) Sunil Mantri Realty Ltd.	Suit relating to tenancy rights of the premises at ground floor at Vitthal Niwas, 100, Walkeshwar Road, Mumbai. This relates to Walkeshwar Ruby Terrace Co. Housing Society Project.
4	RAD & R Suit No. 512 of 2010	Ashok Lalji Jaiswal Versus i) Walkeshwar Ruby Terrace Co.op. Housing Society ii) Sunil Pandurang Mantri iii) India Bulls Financial Services iv) India Bulls Financial Services Ltd.	Suit relating to tenancy rights at 100 Vitthal Niwas, Walkeshwar Road, Mumbai – 400 006. This relates to Walkeshwar Ruby Terrace Co. Housing Society Project.

IV) Cases U/s. 138 before various Metropolitan Magistrate Court, Mumbai

1.	C.C. No. 2442/SS/15 C.C. No. 2470/SS/15 C.C. No. 2471/SS/15 C.C. No. 2472/SS/15 C.C. No. 2473/SS/15 C.C. No. 2474/SS/15 C.C. No. 2475/SS/15 C.C. No. 2476/SS/15 C.C. No. 2477/SS/15 C.C. No. 2478/SS/15 C.C. No. 2479/SS/15	15 Cases filed by various parties before 58 th Court at Metropolitan Magistrate at Bandra, Mumbai
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	C.C. No. 3218/SS/15 C.C. No. 3219/SS/15 C.C. No. 3220/SS/15 C.C. No. 3221/SS/15	
2.	C.C. No. 4075/SS/2013	1 Case filed by Daryani (Indo Saigon) Construction Pvt. Ltd. before 16 th Court of Metropolitan Magistrate at Ballard Pier, Mumbai
3.	C.C. No. 78/SS/2013	1 case filed by Seth Properties before the 16 th Court at Metropolitan Magistrate, Ballard Pier at Mumbai
4.	C.C. No. 2307/SS/15 C.C. No. 2308/SS/15 C.C. No. 2309/SS/15 C.C. No. 2310/SS/15 C.C. No. 2311/SS/15 C.C. No. 3597/SS/15	Six Cases filed by various parties before the 33 rd Court of Metropolitan Magistrate Ballard Pier at Mumbai
5.	C.C. No. 3200/SS/15	1 Case filed by Mr. Jiwan Prakash Thakurdas Hingorani filed before 63 rd Court of Metropolitan Magistrate at Andheri, Mumbai
6.	C.C. No. 3486/SS/15	1 Case filed Mrs. Kasha Vikram Dhawan filed before 28 th of Metropolitan Magistrate Court, at Esplanade, Mumbai
7.	C.C. No. 2298/SS/13 C.C. No. 2737/SS/13	2 Cases filed by Ashok Commercial Enterprises before the 64 th Metropolitan Magistrate Court, Esplanade, Mumbai

**IN THE HIGH COURT OF JUDICATURE
AT BOMBAY**

**ORDINARY ORIGINAL CIVIL
JURISDICTION**

APPLICATION NO. 94 OF 2014

IN

COMPANY PETITION NO. 947 OF 2014

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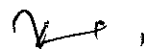
In the matter of the Companies Act, 1956;

And

In the matter of winding-up of M/s. Mantri
Realty Ltd. (In Prov. Liqn.)

**SUBMITTED TO THE HON'BLE JUDGE
TAKNG COMPANY MATTERS:-**

Dated this day of August, 2016



OFFICIAL LIQUIDATOR