

(2010) 11 RAJ CK 0003

In the Rajasthan High Court

Case No : Company Application No. 157 of 2010 in Company Petition No. 24 of 1996

In Re: OL of San India Electro Chem (P) Ltd.

Date of Decision : 25-11-2010

Acts Referred:

Citation : (2010) 11 RAJ CK 0003

Hon'ble Judges : Ajay Rastogi, J

Bench : Single Bench

Final Decision : Allowed

Judgement

Ajay Rastogi, J.—Instant application has been filed by Official Liquidator of M/s San India Electro Chem (P) Ltd U/r 275 of the Companies (Court) Rules, 1959 for declaration of dividend to the secured creditOrs.

2. It has been averred in the application that in Company Petition No. 24/1996, winding up order of M/s San India Electro Chem (P) Ltd was passed on 20/03/1997 and the applicant OL was appointed as official liquidator from the date of order for conducting the winding up proceedings.

3. It has further been averred that entire assets of the Company in liquidation were sold by Secured Creditors (RIICO) and as per order dt.15/04/2005 passed by Division Bench in Special Appeal (Civil)-46/2003 & Civ. Msc. Stay Appl.-832/2003, the RIICO deposited sale proceeds through cheque dt. 26/06/2006 with the applicant OL; and after seeking prior approval from the Company Court vide order dt. 06/09/2006 in Co. Appl.32/2006, the claims were invited from the creditors of Company in liquidation vide wide publication through news papers (Times of India, Delhi Edn, Rajasthan Patrika (All Rajasthan Edn) and Dainik Angad Bundi Edn.).

4. It has also come on record that there are only two secured creditors viz. Rajasthan Financial Corporation and RIICO and three other unsecured creditors of the Company in liquidation, who had submitted their claims, which after being examined, has been rejected by applicant OL - details whereof are mentioned in

para 6 of instant application.

5. It has also been informed that there is no claim received of the workmen of Company in liquidation and the claims of secured creditors have been settled by applicant-OL and in these circumstances, it has been prayed that the applicant OL may be permitted to disburse the dividend to the secured creditors. At the same time, it has also been prayed that since there is no other secured creditors and the workmen of Company in liquidation; as such requirement of formalities of notice period and publication of notice of payment of dividends in news papers under Rule 276 of Co. (Court) Rules, 1959 may be dispensed with.

6. Taking note of material on record, this Court considers it appropriate to dispense with the requirement of procedure provided u/s 276 of Co. (Court) Rules and direct the applicant OL for declaring dividends of the company in liquidation and disburse its payment to the secured creditors as prayed for in prayer Clause (iii) of instant application which accordingly stands allowed. A copy of this order be placed in Co. Appeal- 5/2010, Co. Appl. 32/2009 & Co. Petition- 24/1996.