

(2012) 04 KAR CK 0040

In the Karnataka High Court

Case No : Company Application No. 234 of 2012 and Company Petition No. 166 of 2001

K. Devaraya Shenoy

APPELLANT

Vs

The Mysore Kirloskar Ltd., (Company In Liquidation)

RESPONDENT

Date of Decision : 17-04-2012

Acts Referred:

Companies Act, 1956 — Section 529 A

Citation : (2012) 04 KAR CK 0040

Hon'ble Judges : A.S. Bopanna, J

Bench : Single Bench

Advocate : B.M. Lokesh, for the Appellant; K.S. Mahadevan and Vijayaram for Ol, for the Respondent

Judgement

A.S. Bopanna

1. Though the objection raised by the registry is valid, considering the fact that similar applications have been disposed of and the relief prayed in the application has not been granted. The application in any event could be considered and disposed of notwithstanding the office objection. Accordingly, the application is taken up and disposed of in the following manner The applicant is seeking for a direction to the respondent-Official Liquidator to disburse the applicant's admitted claim of Rs. 2,26,767/-.

2. The applicant states that in respect of the amount due and payable to the applicant, the claim had been preferred subsequent to the order of winding up made on 01.04.2004. The grievance of the applicant is that the amount has not yet been disbursed and therefore a direction be issued to the official liquidator to disburse the amount.

3. Insofar as the disbursement to be made by the official liquidator, it cannot be in dispute that the priority as contemplated u/s 529(A) of the Companies Act would have to be followed by the official liquidator. In any event, in respect of

the amount which has been realised, the Official Liquidator had filed OLR No. 509/2011 which had come up for consideration by this Court on 17.02.2012. As per the leave sought in the said OLR No. 509/2011 in respect of the company in liquidation, which is the subject matter in the instant application, approval has been, granted for disbursement of the amount as sought therein. Therefore, in that circumstances amount in any event would have to be disbursed to the applicant also in accordance with law on prorata basis. Therefore, the direction to pay the entire amount as sought for in the application would not arise for consideration, since the applicant would be entitled, to the available amount on prorata basis, which has been permitted to be declared and paid in the said OLR No. 509/2011. Heedless to mention that the official liquidator shall take steps to disburse the amount expeditiously and in accordance with law. Therefore, reserving right to the applicant to receive the amount from the official liquidator to the extent as permitted by this Court, the application stands disposed of.