

Dr Mohan Kumar Shettar vs the Official Liquidator of

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Court : Karnataka

Decided On : Jul-31-2025

Judge : E.S.Indires

Appeal No. : CA/51/2025

Appellant : Dr Mohan Kumar Shettar

Respondent : The Official Liquidator of

Judgement :

-1-

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 31ST DAY OF JULY, 2025 BEFORE THE HON'BLE
MR. JUSTICE E.S.INDIRES COMPANY APPLICATION NO. 51 OF
2025 IN COMPANY PETITION NO.192 OF 2011 BETWEEN:

1. DR. MOHAN KUMAR SHETTAR

S/O NAGARAJAPPA SHETTAR, AGED ABOUT 55 YEARS, R/AT NO.
35, 12TH CROSS, GAYATHRI LAYOUT, G H B C S
BASAVESHWARANAGAR, BENGALURU - 560079. APPLICANT (BY
SRI. PRAKASH K A., ADVOCATE) Digitally signed by SHARMA ANAND

CHAYA AND: Location: HIGH COURT OF KARNATAKA 1. THE OFFICIAL LIQUIDATOR OF M/S OMKAR ESTATES PVT LTD (IN LIQUIDATION) ATTACHED TO THE HON'BLE HIGH COURT OF KARNATAKA, CORPORATE BHAVAN, NOS.26 AND 27, 12TH FLOOR, RAHEJA TOWERS, M G ROAD, BENGALURU - 560001. RESPONDENT (BY SRI. K.S. MAHADEVAN, ADVOCATE FOR OFFICIAL -2- LIQUIDATOR) THIS APPLICATION IS FILED UNDER SECTION 177 OF THE COMPANIES (COURT) RULES, 1959 FURTHER R/W SECTION 5 OF THE LIMITATION ACT, 1963 PRAYING TO CONDONE THE DELAY OF 1489 DAYS IN PREFERRING THE CLAIM AGAINST THE RESPONDENT COMPANY (IN LIQUIDATION) BEFORE THE OFFICIAL LIQUIDATOR BY FILING FORM NO.66 (UNDER RULE 151 OF THE COMPANY COURT RULES, 1959) - AFFIDAVIT OF PROOF OF DEBT DATED 28.04.2025 AND DIRECT THE OFFICIAL LIQUIDATOR TO ADJUDICATE THE CLAIM MADE BY THE APPLICANT HEREIN IN ACCORDANCE WITH LAW WITHIN THE TIME PRESCRIBED BY THIS HON'BLE COURT AND GRANT SUCH OTHER RELIEF/RELIEFS AS THIS HON'BLE COURT DEEMS FIT TO GRANT IN THE FACTS AND CIRCUMSTANCES OF THE CASE. THIS APPLICATION, COMING ON FOR ORDERS, THIS DAY, ORDER WAS MADE THEREIN AS UNDER: CORAM: HON'BLE MR. JUSTICE E.S.INDIRESH

ORAL ORDER

1. This application is filed by the applicant under Rule 177 of the Companies (Court) Rules, 1959 read with Section 5 of the Limitation Act, 1963 seeking condonation of delay in filing of Form No.66 before the Official Liquidator in connection with -3- liquidation of the Company to prove the debt claimed by the applicant.

2. The case of the applicant is that, the

respondent-Company was ordered to be wound up by this Court vide order dated 13.09.2012, and the Official Liquidator attached to this Court has been appointed

as Liquidator of Company under liquidation. The applicant had made payments towards the Company's residential township project for the purchase of a residential site measuring 30 x 40 feet. The applicant is a creditor of Company under liquidation as it owes dues to the applicant at the time of its winding up.

3. The Official Liquidator issued a public notice dated 10.03.2021 inviting creditors to submit their claims by way of affidavit in the prescribed format (Form No.66) on or before 31.03.2021. The applicant -4-

has submitted an affidavit of proof of debt in Form No.66 with the Official Liquidator on 29.04.2025. As per the paper publication issued by the Official Liquidator the applicant was required to submit an affidavit of proof of debt to prove any claim or debt

against the respondent-Company on or before 31.03.2021. The applicant, however, did not have knowledge about publication and was unaware of the requirement to file the proof of claim within the stipulated time. After the expiry of the time prescribed in the paper publication, the applicant has submitted Form No.66, claiming debt against the Company under liquidation after winding up. The applicant approached

the Official Liquidator to condone the delay in submitting the claim petition. The Official Liquidator informed the applicant that, in the event the applicant has any claim against the respondent-Company, such a claim must be submitted in the prescribed format, -5-

i.e., Form No.66, supported by an affidavit of proof and further stated that, the applicant is required to get the delay condoned from the Hon'ble High Court of Karnataka as required under section 177 of the Companies (Court) Rules 1959. Hence, the applicant has filed this application under section 177 of the Companies (Court) Rules 1959.

4. I have heard Sri. K. A. Prakash, learned counsel for the applicant and Sri. K. S. Mahadevan, learned counsel for the Official Liquidator.

5. Learned counsel appearing for the applicant submits that, the applicant is the creditor of

respondent-Company and has paid the entire consideration amount to the respondent-Company. He submits that, as per order passed by this court, the company was wound up on 13.09.2012. He further submits that the official Liquidator was appointed by -6- this court and the applicant was not aware about the paper publication published by the Official Liquidator, and therefore, the applicant was unable to file Form No.66 before the Official Liquidator within the prescribed time. Hence, though there is a delay of 1489 days in filing Form No.66 before the Official Liquidator, sufficient cause is shown and therefore, the applicant prays to condone said delay.

6. Per contra, learned counsel appearing for the Official Liquidator submits no objections to condone delay.

7. Upon perusal of the records and

consideration of the submissions made by the learned counsel appearing for both parties, it is observed that the winding-up order in respect of the Company under liquidation was passed on 13.09.2012. Pursuant to this, the Official Liquidator issued a public notice -7-

calling upon all creditors to submit their claims in the prescribed format, i.e., Form No.66, on or before 31.03.2021. It is the applicants claim that he is a creditor of the said Company, having paid the full consideration amount for a residential site. It is not in dispute that the Official Liquidator issued the paper publication; however, the applicant contends that he had no knowledge of such publication and therefore, was unable to submit the required Form No.66 within the stipulated time.

8. Subsequently, the applicant filed the affidavit of proof of debt in Form No.66 on

29.04.2025, and thereby causing a delay in submission of his claim. Accepting the explanation offered by the applicant and in the absence of any objection from the Official Liquidator, this Court is of the opinion that the applicant has demonstrated

sufficient cause for condoning the delay in filing the -8- Form No.66. Accordingly, the delay in submission of Form No.66 deserves to be condoned.

9. In view of the above, I proceed to pass the following:

ORDER

i) The application is allowed. ii) Delay of 1489 days in submitting Form No.66 before the Official Liquidator by the applicant is hereby condoned. iii) The Official Liquidator is directed to adjudicate the claim submitted by the applicant in accordance with law, within a period of two months from the date of receipt of the certified copy of this order. SD/- (E.S.INDIRESH) JUDGE SB:List No.: 1 SI No.: 16

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