

Industrial Finance Corporation of India Vs. Official Liquidator, Amruta Mills Ltd.

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Court : Gujarat

Decided On : Mar-12-1997

Reported in : [2000]102CompCas253(Guj)

Judge : S.D. Pandit, J.

Acts : [Companies Act, 1956](#) - Sections 529 and 529(1); Companies (Court) Rules, 1959 - Rules 272, 273 and 274; Industrial Finance Corporation of India Act, 1948 - Sections 30, 30(12) and 40(12); [Industrial Reconstruction Bank of India Act, 1984](#) - Sections 40; Code of Civil Procedure (CPC)

Appeal No. : Company Application No. 115 of 1992 in C.P. No. 72 of 1991, Company Application Nos. 201, 202, 203 a

Appellant : industrial Finance Corporation of India; Official Liquidator, Amruta Mills Ltd. ; Industrial Reconst

Respondent : Official Liquidator, Amruta Mills Ltd.; Industrial Finance Corporation of India ; Official Liquidato

Advocate for Def. : Official liquidator in No. 1 in Misc. Applns. Nos. 38 of 1991, 6 of 1992, 201 of 1996 and 31 of 1991, D.S. Vasavada, for respondent No. 2 in Company

Advocate for Pet/Ap. : Official liquidator, in Company Applicatins Nos. 115 of 1992. 203 of 1996 and 202 of 1996,; A.C. Gandhi

Judgement :

S.D. Pandit, J.

1. The company applications in all these matters are filed by the official liquidator (O. L.) seeking permission of this court to sell the properties of the companies which have gone in liquidation and to get the directions regarding the sale of the said properties, whereas the Misc. Applications Nos. 6 of 1992, 31 of 1995, 37 of 1991 and 38 of 1991 are filed by one of the secured creditors of the company which are ordered to be wound up in order to get the order of this court to allow them to sell the properties in order to recover their outstanding dues. As common questions of facts and law are involved in all these matters, all these matters are being considered and disposed of with the consent of the parties by this common judgment.

2. Company Application No. 115 of 1992 and Misc. Application No. 6 of 1992:

Company Application No. 115 of 1992 is filed by the official liquidator who has been appointed to take possession of the properties belonging to Amruta Mills Ltd. In Company Petition No. 72 of 1991, an order of winding up of the said Amruta Mills was passed on November 22, 1991. The official liquidator has filed this Company Application No. 115 of 1992, seeking directions from this court to sell the property of which he has taken possession and to get directions as regards the manner in which the sale is to be effected. In this application he has shown all the secured creditors of the said company as respondents along with the Textile Labour Association (TLA) as respondent. One of the said secured creditors is Industrial Finance Corporation of

India (IFCI).

3. The said secured creditor of Amruta Mills (IFCI) has filed this Misc. Application No. 6 of 1992, titling it as an application under Section 30 of the Industrial Finance Corporation of India Act, 1948. It is the claim of the applicant IFCI that Amruta Mills Ltd. had applied for a term loan of Rs. 38.75 lakhs and term loan of Rs. 50 lakhs out of the term loan of Rs. 250 lakhs and Rs. 29 lakhs out of term loan of Rs. 172 lakhs and all the necessary documents for the loan agreement were executed on November 17, 1980. It is further the claim of the applicant IFCI that the said company had also created a mortgage by depositing the title deeds and had also executed a deed of hypothecation and other security documents in favour of the applicant. The further claim of the applicant is that the applicant has to recover an amount of Rs. 1,38,10,453 which was due on June 15, 1992, and further interest on the said amount and costs. It is the claim of the petitioner that the petitioner had obtained leave under Section 446 of the Companies Act in Company Application No. 151 of 1992 on July 8, 1992, and therefore, the applicant is seeking orders of sale of the properties of Amruta Mills Ltd. which were mortgaged and hypothecated with the applicant under the provisions of Section 30 of the Industrial Finance Corporation of India Act, 1948 (IFCI Act).

4. Company Application No. 201 of 1996, with Misc. Application No. 31 of 1995 :

Company Application No. 210 of 1996 is filed by the official liquidator seeking permission of this court to sell the properties belonging to Nutan Mills Ltd. which has gone in liquidation as per the order passed by this court in Company Petition No. 64 of 1993, on July 6, 1993.

5. Miscellaneous Application No. 31 of 1995 is filed by one of the secured creditors which were shown by the official liquidator in Company Application No. 201 of 1996, viz., Industrial Reconstruction Bank of India (IRBI) purporting to be an application under Section 40 of the [Industrial Reconstruction Bank of India Act, 1984](#). It is the claim of the applicant that by letter dated December 3, 1986, Nutan Mills had asked for a term loan of Rs. 74 lakhs and the said request was granted and a loan of Rs. 74 lakhs was sanctioned as per the loan agreement dated February 12, 1987. The said amount was to be repaid in 12 half-yearly instalments commencing from June 20, 1988, and ending on December 20, 1993, with an agreement to pay 11.5 per cent. interest and damages of 2 per cent. per annum for the period of default. It is the case of the applicant that the said company had also executed deed of hypothecation as well as deed of mortgage and had furnished other documents by way of securities. It is the claim of the applicant that said company owes to the applicant an amount of Rs. 1,63,27,167 as on November 15, 1995, and further interest and costs and for that purpose the properties belonging to the said company may be allowed to be sold by the applicant by exercising the powers under Section 40 of the [Industrial Reconstruction Bank of India Act, 1984](#).

6. Company Application No, 210 of 1996, with Misc. Application No. 37 of 1991:

Company Application No. 210 of 1996 is filed by the official liquidator showing the Slate Bank of India, IRBI and TLA as opponent. The official liquidator is seeking & permission of this court to sell the property and he further wants a direction regarding the sale of the property belonging to Omex Instores Ltd. which has gone into liquidation as per the order of winding up passed on March 6, 1990, in Company Petition No. 156 of 1990.

7. Miscellaneous Application No. 37 of 1991 is filed by the IRBI purporting to be an application under Section 40 of the [Industrial Reconstruction Bank of India Act, 1984](#) (IRBI Act). It is the claim of the applicant that the said company which has gone into liquidation has taken a term loan of Rs. 200 lakhs and had executed deeds of hypothecation mortgage and other security bonds in favour of the applicant. It is the claim of the applicant that the applicant's dues are of Rs. 3,09,20,829 and future interest and costs. Therefore, the applicant seeks the order of this court to sell the property of the company in liquidation under the provisions of Section 40 of the IRBI Act.

8. Company Applications Nos. 202 and 203 of 1996:

These Company Applications Nos. 202 and 203 of 1996 are filed by the official liquidator and in both the applications SBI, IDBI, IRBI, ICICI and TLA are shown as five respondents. Company Application No. 202 of 1990 is pertaining to New Gujarat Synthetics Mills Ltd. (No. 2) ; whereas Company Application No. 203 of 1996 is pertaining to New Gujarat Synthetics Mills Ltd. (No. 1). The two companies, viz., New Gujarat Synthetics Mills Ltd. (No. 1) and New Gujarat Synthetics Mills Ltd. (No. 2) have gone into liquidation as per the order of winding up passed in Company Petition No. 107 of 1989 and Company Petition No. 10 of 1986 on September 1, 1989. The official liquidator is seeking permission of this court to sell the property of the said companies and a direction regarding the sale.

9. Miscellaneous Application No. 38 of 1991 is filed by the IRBI purporting to be an application under Section 40 of the IRBI Act. It is the claim of the applicant that these two companies were initially one company viz.. New Gujarat Synthetics Mills Ltd. and the said original company had taken a term loan of Rs. 400 lakhs and they owe an amount of Rs. 2,14,03,441 to the applicant on account of the said term loan. Towards the said term loan said company had executed deeds of hypothecation and other security bonds in favour of the applicant. The applicant therefore seeks an order of sale under the provisions of Section 40 of the [Industrial Reconstruction Bank of India Act, 1984](#).

10. The applicant in Misc. Application No. 6 of 1992 is represented by the senior advocate, Mr. B.H. Chatrapati. It is his contention that the sale which he is seeking is under Section 30 and, therefore, he alone is entitled to sell the property. It is also his contention that no sale committee should be appointed to sell the property and other secured creditors as well as the official liquidator and the TLA are not entitled to participate in the sale committee. The applicants in Misc. Applications Nos. 31 of 1995, 37 of 1991 and 38 of 1991 are represented by Mr. Singhi. He also contends that the sale which he is seeking in these proceedings is a sale under Section 40 and, therefore, neither the official liquidator nor the TLA are entitled to participate in the said proceedings and he has no objection to appoint a sale committee for selling the property, but according to him, the representative of the TLA should not be a member of the sale committee.

11. All the other secured creditors, viz., SBI, Punjab National Bank, IDBI, ICICI have no objection to selling the property through the sale committee, but they also do not want the TLA to be a member of the sale committee.

12. I will first deal with Misc. Application No. 6 of 1992, before considering the claim of the applicant that his application is under Section 30 of the IFCI Act, 1948, and he alone is entitled to sell the property. For considering this aspect, it is necessary to mention certain salient facts and circumstances. There is no dispute of the fact that Amruta Mills, which has gone into liquidation had taken a loan from the applicant and, for that purpose, mortgage of immovable property and hypothecation of movable properties were created in favour of the applicant but it is also an admitted fact that the said company Amruta Mills is ordered to be wound up by the order dated November 22, 1991 in Company Petition No. 72 of 1991. Present Misc. Application No. 6 of 1992 is filed by the applicant on July 20, 1992. Thus this application of the applicant has come before this court after the order of winding up of the said company is passed.

13. In the light of the admitted facts, viz., that the order of winding up of the said debtor company has been passed on November 22, 1991, and the applicant has filed the present application on July 20, 1992, the provisions of Sub-section (12) of Section 30 will have to be considered. Sub-section (12) of Section 30 of the IFCI Act is running as under :

'Nothing in this section shall be construed, where proceedings for liquidation in respect of the industrial concern have commenced before an application is made under Sub-section (1) as giving to the Corporation any preference over the other creditors of the industrial concern not conferred on it by any other law.'

14. The relief sought by the applicant of sale is under Sub-section (1) of Section 30 of the IFCI Act, 1948. If the above provisions of Sub-section (12) of Section 30 are taken into consideration in the background of the fact that the applicant cannot claim any preference over the other creditors--secured as well as unsecured--of

Amruta Mills Ltd. No doubt the applicant is a secured creditor and a secured creditor can join the proceedings if the company has gone into liquidation before the company court or he can remain out of the proceedings before the company court in order to realise his dues by liquidating his securities and he can proceed with a proceeding suit by remaining out of the liquidation proceedings or he can obtain that relief from the court which has passed the order of liquidation by proving his debt. But the company can seek an order of sale from the court under Section 30(1) of the said Act of 1948 and the sale of the property is to be carried out as far as practicable under the provisions of the Code of Civil Procedure. That is quite clear from the provisions of Section 30(10) which runs as under :

'30.(10) An order of attachment or sale of the property under this section shall be carried into effect as far as may be practicable in the manner provided in the Code of Civil Procedure, 1908, for attachment or sale of property in execution of a decree as if the Corporation were the decree holder.'

15. In Misc. Applications Nos. 31 of 1995, 37 of 1991 and 38 of 1991, the applicant is IRBI. In all these three applications, it is the claim of the applicant that the sale of the property of the company which has been wound up should be effected under the provision of Section 40 of the IRBI Act, 1984. Miscellaneous Application No. 31 of 1995 is filed in respect of the company, Nutan Mills Ltd. The said application is filed on October 25, 1995. But the said company Nutan Mills is ordered to be wound up by the order, dated July 6, 1993, in Company Petition No. 64 of 1993. In Misc. Applications Nos. 37 of 1991 and 38 of 1991, the applicants have sought for the permission to sell the property of Omex Interstores and New Gujarat Synthetics Mills Ltd. The company Omex Interstores Ltd. has gone into liquidation as per the order of winding up on March 6, 1990 in Company Petition No. 156 of 1990, whereas the Misc. Application No. 37 of 1991 is filed on February 8, 1991. New Gujarat Synthetics Mills Ltd. (No. 1) and (No. 2) are liquidated by the order of winding up passed on September 1, 1989, in Company Petition No. 10 of 1986, whereas the miscellaneous application is filed on February 1, 1991. Therefore, it is quite obvious that both these applications are filed after the order of winding up passed by the company court. Thus all these three applications, viz., Misc. Applications Nos. 31 of 1995, 37 of 1991 and 38 of 1991 are filed by the IRBI in respect of companies which have already gone into liquidation by the order of winding up passed by the company court. If the provisions of Subsection (13) of Section 40 of the IRBI Act, 1984, are considered, then, it would be quite clear that the applicant in these three applications cannot claim any preference over the other creditors--secured as well as unsecured--when they have filed these applications after the order of winding up is passed. The said Sub-section (13) of Section 40 is running as under :

'Nothing in this section shall be construed, where proceedings for liquidation in respect of an industrial concern have commenced before an application is made under Sub-section (1) as giving to the Reconstruction Bank any preference over the other creditors of the industrial concern not conferred on it by any other law.'

16. Misc. Applications Nos. 6 of 1992, 31 of 1995, 37 of 1991 and 38 of 1991 are applications under Section 40(1) of the IRBI Act for sale. The sale of the property of the company is to be effected as far as practicable under the provisions of the Code of Civil Procedure. That is quite clear from the following provisions of Sub-section (10) of Section 40 of the IRBI Act, 1984 :

'40.(10) An order of attachment or sale of property under this section shall be carried into effect as far as practicable in the manner provided in the Code of Civil Procedure, 1908, for attachment and sale of property in the execution of a decree as if the Reconstruction Bank was a decree holder.'

17. Thus, these four Misc. Applications Nos. 6 of 1992, 31 of 1995, 37 of 1991 and 38 of 1991 are filed by the secured creditors under the special Acts but said applications are filed by them after the companies which are their debtors, have gone into liquidation on account of the passing of the order of winding up and possession of the property was also taken over by the official liquidator. The miscellaneous applications are no doubt of secured creditors and they are entitled to remain out of the liquidation proceedings and they have a right to proceed against their securities in order to recover their dues. But, for that purpose, in view of the provisions

of the special Act under which they have come they ought to have taken recourse to the specific provisions in order to get priority over other creditors before passing of orders of winding up of these companies. Thus I hold that all these four miscellaneous applications seeking relief under the special Acts are tenable, but the applicants cannot claim any preferential rights over other creditors of these companies.

18. However, all the applicants will have to produce all the material to satisfy this court as to what are the dues of each of the applicants against the debtor company. On their producing that material the amount of sale proceeds would be distributed among all the secured creditors and the workers of mills. But in view of the fact that the mill companies are closed down and winding up orders are passed long back, I hold that in the interest of all the parties, I should proceed to effect the sales of the properties.

19. Now the applicants in Misc. Applications Nos. 6 of 1991, 31 of 1991, 37 of 1991 and 38 of 1991 are also seeking sale of the property of the company in liquidation and the official liquidator has also filed Company Applications Nos. 115 of 1992, 211 of 1996, 210 of 1996, 202 of 1996 and 203 of 1996, for getting one and the same relief. There is no dispute between these applicants before me as well as the other secured creditors which are shown as respondents in those applications on the point that the property of the companies which have gone into liquidation are to be sold. But it is contended before me that the properties need not be sold by this court through the sale committee ; particularly, by Mr. Chatrapati, learned advocate for the applicant in Misc. Application No. 6 of 1992. The other applicants as well as secured creditors have not objected to selling the property through a sale committee. They have got the only objection that the representative of the TLA should not be a member of the sale committee.

20. It is vehemently urged before me by Mr. Chhatrapati that neither the Companies Act nor the CPC provides for the sale of the properties of the company through a sale committee. He also submitted before me that even the IFCI Act also does not provide for appointment of a sale committee. It is true that there is no specific provision either in the CPC or in the IFCI Act or in the IRBI Act or the Companies Act specifically providing for appointing/creating a sale committee for the sale of the property. But at the same time, the Companies (Court) Rules, 1959, pertaining to the sale by the official liquidator, there are rules at serial numbers 272, 273 and 274. Out of them, Rule 273 is running as under :

'Procedure at sale.--Every sale shall be held by the official liquidator, or, if the judge shall so direct, by an agent or an auctioneer approved by the court, and subject to such terms and conditions, if any, as may be approved by the court. All sales shall be made by public auction or by inviting sealed tenders or in such manner as the judge may direct.'

21. Now if the provision of Rule 273 is considered, then it will be clear that ordinarily, the sale of the property in a liquidation proceeding is to be held by the official liquidator ; but it also empowers the company court judge to issue directions to have a sale agent or sale committee. A sale committee is a creation of the courts. The sale committee is appointed by the court with a view to see that the interest of the secured creditors as well as the labourers and unsecured creditors is fully protected and achieved. The sale committee is appointed in order to see that the maximum possible price for the property to be sold is received. There is another purpose in appointing the sale committee and that is to avoid making allegations against the sole individual, whether official liquidator or single agent, who is directed to sell the property and to avoid investigation of the allegations against such sole persons. Generally, representatives of the secured creditors are taken on the sale committee with a view to see that property which is either hypothecated or mortgaged fetches proper and good value so as to see that their dues are fully recovered. Thus appointment of a sale committee is always in the interest of all persons who are interested in securing their dues and it is also in the interest of the company which has gone into liquidation. There could not be any legal objection to an appointment because it could not be said that by appointing a sale committee any prejudice is caused to any of the secured creditors or anybody else. It must also be mentioned here that in fact, the control for the sale is of the court and unless the court accepts the final bid and confirms the sale effected by the sale committee, the sale will not be effective.

22. As stated earlier, the sale committees are appointed by the court by its order. When the sale committee is appointed or created by the order of the court, it is the privilege and prerogative of the court to select the members of the sale committee. Because it is a sale by the court under the Code of Civil Procedure. No doubt, it will be open for the party to contend that the person who is nominated or appointed by the court is disqualified either by his own conduct or on account of the statutory provisions from being the member of the sale committee. Generally, when the court appoints a sale committee, the courts gives representation to all the secured creditors of the company in the said sale committee, and it also gives representation to the TLA for participation on the said sale committee. The official liquidator is also included in the sale committee, because he happens to be technically in possession of the property to be sold and he is to give possession as well as title to the purchaser. The secured creditors are objecting to giving nomination to the representslives of the TLA in the sale committee. It is their contention that when the official liquidator is there, then the representative of TLA need not be taken in the sale committee and for that purpose, they put reliance on the Section 529(1) of the Companies Act.

'529. Application of insolvency rules in winding up of insolvent companies.--(1) In the winding up of an insolvent company, the same rules shall prevail and be observed with regard to-

(a) debts provable ;

(b) the valuation of annuities and future and contingent liabilities;

(c) the respective rights of secured and unsecured creditors, as are in force for the time being under the law of insolvency with respect to the estates of persons adjudged insolvent :

Provided that the security of every secured creditor shall be deemed to be subject to a pari passu charge in favour of the workmen to the extent of the workmen's portion therein, and where a secured creditor, instead of relinquishing his security and proving his debt, opts to realise his security-

(a) the liquidator shall be entitled to represent the workman and enforce such charge ;

(b) any amount realised by the liquidator by way of enforcement of such charge shall be applied rateably for the discharge of workmen's dues ; and

(c) so much of the debt due to such secured creditor as could not be realised by him by virtue of the foregoing provisions of this proviso or the amount of the workmen's portion in his security whichever is less, shall rank pari passu with the workmen's dues for the purposes of Section 529A.'

23. Now if the above provisions are taken into consideration, then it would be quite clear that Clause (a) of the proviso to Sub-section (1) of Section 529 lays down that where the secured creditor instead of relinquishing his security and proving his debt, opts to realise his security, the liquidator shall be entitled to represent the workmen and enforce their charge which is declared as a pari passu charge by the proviso. Now if that proviso is considered then, it would be quite clear, the representation of the workmen by the official liquidator is in case of a sale carried out by the secured creditor by not coming before the court in a liquidation proceeding. It is always open for the secured creditor to either join the liquidation proceedings without surrendering his security by proving his debt and he can also remain out of the liquidation proceedings and to proceed to liquidate his securities by taking an independent proceeding. But when the secured creditor comes before the court and without relinquishing his security proves his debt and asks to realise his securities, then in that case, it could not be said that the liquidator shall be entitled to represent the workmen.

24. But the representation of the official liquidator created by Section 529 is for the 'purpose of proving the charge of workers' and to make recovery. Here I am not considering the charge of the workmen or the question of recovering their dues. Here I am proceeding to sell the property of the debtor. Hence in this proceeding, there could (not ?) be representation of the workmen by the official liquidator.

25. Therefore, in my opinion, there could not be any objection for allowing the representative of the TLA to be a member of the sale committee even if there happens to be official liquidator in the sale committee.

26. No doubt the learned advocate for the applicant in Misc. Application No. 6 of 1992, cited before me, the decision of the learned single judge of this court in Company Petition No. 157 of 1995, in Company Petition No. 39 of 1992, in Company Petition No. 157 of 1989, in the case of State Bank of India v. Official Liquidator of Aryoday Gng. and Mfg. Co. Ltd. decided on November 27, 1996, and has put reliance on the following observations :

'It is a settled legal position which does not require any elaboration that a secured creditor who is remaining outside the winding up proceedings can get his securities sold so that he can be paid from the sale proceeds. By virtue of provision of Sections 529 and 529A of the Companies Act, even the workmen will get workmen's portion as calculated as per the said provisions if all the securities are disposed of. Looking to the fact that the official liquidator has also to represent the workmen, I do not think it necessary to permit a representative of the workmen to participate in the proceedings which might have to be initiated for selling the securities.'

26. If the above observations are considered, then it would be quite clear that in that case also, the learned single judge does not say that representative of workmen could not be a member of the sale committee. Then he also cited before me the decision of the Division Bench of this court in the case of Gujarat State Financial Corporation v. Official Liquidator, Himalaya Tools (P) Ltd. [1996] 87 Comp Cas 658 in Company Petition No. 16 of 1991, decided on October 7, 1994 [1996] 1 Comp LJ 503 (Guj). Now in that case also, the Gujarat State Financial Corporation and Bank of Maharashtra were the secured creditors of the company, M/s. Himalaya Tools (P) Ltd. had already taken over possession of the company and had sold the same to another company after receiving a certain amount and thereafter, the official liquidator has filed a Company Application No. 36 of 1990, seeking' an order of the court to ask the said secured creditors to hand over the sale proceeds of the property transferred to the third party and to deliver possession of the remaining property of the company which had gone into liquidation and though that claim of the official liquidator was allowed by the company judge, the same is rejected by the Division Bench by allowing that appeal. Therefore, on the facts the said case will not be applicable to the facts of the case before me.

27. Thus, I hold that it is the discretion of the court as to who should be the members of the sale committee, and it is also the discretion of the court as to whether the property is to be sold through the sale committee or not.

28. I, therefore, hold that in Misc. Application No. 6 of 1992, the sale of the property of Amruta Mills Ltd. is to be effected through the sale committee which would consist of the official liquidator, and the representatives of the five creditors and the representative of the TLA ; but I direct that the representative of the IFCI should be the chairman of the said sale committee and the sale proclamation and advertisement be issued in his name as that is likely to fetch better price than if the sale advertisement is issued in the name of official liquidator. The members of the said sale committee will not be entitled to claim and get any remuneration for attending or participating in the proceedings of the said committee. In the said sale advertisement/proclamation, usual terms for sale be mentioned along with one additional condition that the quantity and quality mentioned in the advertisement are approximate and the purchaser will not be entitled to raise any dispute or claim whatsoever as regards either quantity or quality of the property subsequent to the sale. In the Misc. Application No. 6 of 1992, the IFCI to spend the money for advertisement/sale proclamation and incidental expenses. In view of allowing sale in Misc. Application No. 6 of 1992, Company Application No. 115 Of 1992 is rejected.

29. In Misc. Application No. 31 of 1995, it is directed that the property of Nutan Mills. Ltd. should be sold through the sale committee consisting of the official liquidator and representatives of five secured creditors mentioned in the said application and the representative of the TLA ; but the chairman of the said sale committee should be the representative of the IRBI and the proclamation/advertisement should be issued in

his name. Secured creditors are at liberty to nominate anybody on their behalf to the sale committee. In Misc. Application No. 31 of 1995, the IRBI to spend the money for advertisement/sale proclamation and incidental expenses.

30. In Company Application No. 210 of 1996 and Misc. Application No. 37 of 1991, it is directed that the property of Nutan Mills Ltd. should be sold through the sale committee consisting of the official liquidator and the representatives of five secured creditors mentioned in the said application and the representative of the TLA ; but the chairman of the said sale committee should be the representative of the IRBI and the proclamation/advertisement should be issued in his name. Secured creditors are at liberty to nominate anybody on their behalf to the sale committee. In Misc. Application No. 37 of 1991, the IRBI to spend the money for advertisement/sale proclamation and incidental expenses. In view of allowing Misc. Application No. 37 of 1991, Company Application No. 201 of 1996 is rejected.

31. In Misc. Application No. 38 of 1991, it is directed that the property of Nutan Mills Ltd. should be sold through the sale committee consisting of official liquidator and the representatives of five secured creditors mentioned in the said application and the representative of the TLA but the chairman of the said sale committee should be the representative of the IRBI and the proclamation/advertisement should be issued in his name. Secured creditors are at liberty to nominate anybody on their behalf to the. sale committee. In Misc. Application No. 38 of 1991, the IRBI to spend the money for advertisement/sale proclamation and incidental expenses. In view of allowing Misc. Application No. 38 of 1991, the Company Applications Nos. 202 of 1996 and 203 of 1996 are rejected.

32. With the above directions, all the applications are disposed of. No order as to costs.

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