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IN THE HIGH COURT OF KARNATAKA AT BANGALORE

DATED THIS THE 21st DAY OF OCTOBER, 2009

BEFORE

THE HON'BLE MR.JUSTICE RAM MOHAN REDDY

C.A.NO.707/09, 708/09 & 715/09

IN

CO.P.NO.166/2001

BETWEEN:

1 R.T.RAMACHANDRA RAO
S/O R.T.NARAYAN RAO
AGED 63 YEARS,
R/A MARATHAGALLI,
HARIHAR

...APPLICANT
IN CA 707/09

2 R T VENKATESH RAO
S/O R.T.NARAYAN RAO
AGED 55 YEARS,
R/A MARATHAGALLI,
HARIHAR

...APPLICANT
IN CA 708/09

3 S HALESH RAO S/O SIDDOJI RAO
AGED 67 YEARS
R/A NO.1, HEGDE COMPOUND
OPP S J V P COLLGE, P B ROAD
HARIHAR

...APPLICANT
IN CA 715/09

(By Sri OMKARESHA, ADV.)

AND:

THE MYSORE KIRLOSKAR LTD
(UNDER LIQUIDATION)

A COMPANY INCORPORATED UNDER THE
COMPANIES ACT, 1956, R/BY HEREIN
BY ITS SECRETARY,
THE OFFICIAL LIQUIDATOR
HIGH COURT OF KARNATAKA
NO.26, 12TH FLOOR,
RAHEJA COMPLEX, M.G.ROAD,
BANGALORE 560001

... RESPONDENT
COMMON

(By Sri DEEPAK & V JAYARAM FOR OL)

THESE APPLICATIONS ARE FILED UNDER SECTION 446(1) OF THE COMPANIES ACT, 1956 R/W RULES 6 & 9 OF THE COMPANIES (COURT) RULES, 1959, PRAYING TO PERMIT THE APPLICANTS TO PROSECUTE THE O.S.NO.62/04, 63/04 & 64 OF 2004 RESPECTIVELY, ON THE FILE OF CIVIL JUDGE(SR.DN) AT HARIHARA BY IMPLEADING THE RESPONDENT AND ETC.,

THESE APPLICATIONS COMING ON FOR ORDERS THIS DAY, THE COURT MADE THE FOLLOWING:

ORDER

Since common question of law and that of fact arises for consideration, hence, with the consent of the learned counsel for the parties, the applications are clubbed together, finally heard and disposed of by this common order.

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2. Applicants claiming to be agreement holders for purchase of certain properties belonging to Mysore Kirloskar Limited (a company under liquidation), prior to its liquidation instituted O.S.No.62/2004, 63/2004 & 64/2004, respectively on the file of Civil Judge, Hiriya for the relief of specific performance of the agreement of sale, have preferred these applications invoking Section 446(1) of the Companies Act (for short 'the Act') to permit the applicants to prosecute the civil suits by impleading the Official Liquidator to represent the company in liquidation arraigned as party defendant, in the suits.

3. The respondent official liquidator has filed a reply statements, inter-alia admitting that the company under liquidation is directed ordered to be wound up by order dt. 1.4.2004 in CO.P.No.166/01 and the Official Liquidator



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is appointed in terms of Section 439 of the Act and has no objection to permit the applicants to prosecute the original suits.

4. In the circumstances, the applications are allowed. The applicants are permitted to prosecute the original suits by impleading the Official Liquidator as representing the company in liquidation, the defendant in the said suits.

Sd/-
JUDGE

KLY/