

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 07.09.2015

CORAM :

The Hon'ble MR.SANJAY KISHAN KAUL, CHIEF JUSTICE
AND
The Hon'ble MR.JUSTICE T.S.SIVAGNANAM

O.S.A.No.134 of 2015

T.Saravanan

... Appellant

-Vs-

The Official Liquidator,
High Court, Madras, as the Liquidator
of M/s.Anubhav Group of Companies
(In Liquidation)

... Respondents

Appeal filed under Order XXXVI Rule 9 of the O.S. Rules read with Clause 15 of the Letters Patent against the order dated 06.11.2014 made in Comp.Application No.947 of 2014 in C.P.No.13 of 2000 in the Company Court jurisdiction of this Court.

Comp.A.947 of 2014 : To direct the Official Liquidator High Court Madras to execute necessary sale deed in favour of Mr.B.B.Mohankumar in respect of Plot No.17, Anubhav Green Rich Village having an extent of 7650 Sq.Ft, comprised in Survey No.539/1A and 1B of Chithoor Village, Sriperumbudur Taluk, Kanchipuram District belonging to the Anubhav group of companies (in liquidation) terms of the auction conducted by this court on 21.03.2013 in C.A.No.75 of 2013 in C.P.No.130 of 1999 and C.A.No.88 of 2013 in c.P.No.13 of 2000.

For Appellant : Mr.Om Prakash
for M/s.J.Nithyanandan

For Respondents : Mr.B.Dhanaraj

J U D G M E N T

(Judgment of the Court was delivered by The Hon'ble Chief Justice)

Admit. Mr.B.Dhanaraj, learned counsel, accepts notice for the respondent.

2.At request of learned counsel for the parties, the appeal is taken up for final disposal.

3.This appeal arises out of the interim order passed in Company Application No.947 of 2014 in Company Petition No.13 of 2000 dated 06.11.2014. Shorn of details, what is relevant for the present appeal is the fact that in an auction held by the Liquidator, the highest bid was accepted and time was given to deposit the balance amount. It appears that this amount was arranged through one B.B.Mohankumar and thus, the appellant, as the highest bidder, wants the sale deed to be executed in favour of the said Mohankumar, which request has been declined as per the impugned order.

4.The case of the appellant is based on discrimination, i.e., there are other cases in which the sale deeds have been so registered. This position cannot be disputed by learned counsel for the Official Liquidator except claiming that when extension of time was granted to the appellant, it was stipulated that sale deed would be executed in favour of the appellant.

5.We appreciate the possibility of the mischief pointed out by the learned Official Liquidator, i.e., if the auction purchasers are permitted to transfer properties to third party in this manner, it may affect auction process itself. However, there can be no doubt that this should be implemented uniformly, but the fact remains that in other cases, permission has been granted and sale deeds were executed in favour of third parties.

6.For the aforesaid, we see no reason why the appellant should be treated differently. Thus, the appellant is entitled to execution of sale deed in favour of B.B.Mohankumar, through the Official Liquidator.

7.While we direct so, we make it clear that if in the future the Official Liquidator does not want this process to continue, an appropriate circular may be issued with conditions as part of the bid clearly stating that no such request shall be entertained for future auctions. In this behalf, it is open to the learned Official Liquidator to obtain necessary orders from the Company Court.

8.The Original Side Appeal is allowed in the present case and the impugned order is set aside with the direction to execute the sale deed in favour of Mr.B.B.Mohankumar, within a period of four (4) weeks from today, subject to fulfilling all other formalities. The parties are left to bear their own costs.

Sd/-
Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar
sra

To

- 1.The Sub Assistant Registrar,
Original Side, Madras High Court,
Chennai.
- 2.The Official Liquidator,
High Court, Madras.

+1cc to Mr.J.Nithyanandan, Advocate, S.R.No.48373
+1cc to Mr.B.Dhanaraj, Advocate, S.R.No.48399

O.S.A.No.134 of 2015

SVI (CO)
CA(16/09/2015)

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