

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 21..01..2015

CORAM

THE HON'BLE Mr.SANJAY KISHAN KAUL, CHIEF JUSTICE
and
THE HON'BLE Mr.JUSTICE M.M.SUNDRESH

O.S.A.No.3 of 2015

The Official Liquidator,
High Court, Madras
Liquidator for Akbar Leathers Limited
(in liquidation) ..Appellant

Versus

1. The Collector,
Vellore District
2. The Tahsildar,
Vaniyambadi,
North Arcot District,
3. The Hindu Educational Trust,
represented by its Secretary,
Dr.M.R.Kanthiraj,
Ambur - 635 802
4. Canara Bank,
5, Greams Road,
Chennai - 6
5. T.I.I.C.,
692, Anna Salai,
Nandanam, Chennai - 600 035
6. SIPCOT,
51 & 52, Greams Road,
Thousand Lights, Chennai - 600 006
7. I.R.B.I.,
769, Anna Salai,
Chennai - 600 002
8. Vijaya Bank,
46, Moore Street,
Chennai - 600 001.

..Respondents

Prayer: Original Side Appeal filed under Order XXXVI Rule 9 of Original Side Rules read with Clause 15 of Lettes Patent against the Order and Decree dated 26.03.2013 made in C.A.No.1087 of 2008 in C.P.No.14 of 1997 on the file of this Court.

For Appellant :: Mr.S.R.Sundar

For Respondents:: Mr.V.Ragavachari
for Mr.M.R.Ravikumar
for R.3

JUDGMENT

(Judgment of Court was made by M.M.Sundresh.J.,)

The Official Liquidator, being the applicant in C.A.No.1087 of 2008 in C.P.No.14 of 1997, has preferred this Appeal aggrieved against the order passed by the learned single Judge.

2. The District collector, Vellore brought the immovable property of the Company for sale under the Revenue Recovery Act to enforce the award passed by the Jurisdictional Labour Court, in pursuant to the Order passed by the Government in G.O.Ms.No.60 dated 30.1.2000. By the proceedings dated 15.5.2000, the District Collector, Vellore directed the Tahsildar, Vaniyambadi to recover the amount due through the sale of the property belonging to the Company.

3. The sale process was challenged by the company - M/s.Akbar Leathers Limited in W.P.No.4733 of 2002. The interim order granted earlier was vacated subsequently by taking note of the non-compliance of the conditional order imposed earlier. In the meanwhile, auction was held in which the 3rd respondent before us was declared as a successful bidder. The 3rd respondent has also paid the bid amount and the sale deed was duly executed in its favour.

4. The appellant was appointed as a liquidator of the Company, whose property was sold in favour of the 3rd respondent by the Order dated 20.9.2006 in C.P.No.14 of 1997. Thereafter, an application was filed in C.A.No.1087 of 2008 seeking the following relief:

'a) To declare that the auction sale conducted by the District Collector and Thasildar, Vaniyambadi, Vellore district as null & void in terms of section 536(3) of the Companies Act, 1956.

b) To direct the Hindu Educational Trust,. Vaniyambadi to hand over the property to the Official Liquidator, High Court, Madras,

c) To permit the Official Liquidator to revalue the entire assets of the company in liquidation through an approved valuer.

d) To permit the Official Liquidator to pay the Security

Charges due to Security Agency M/s.Swastik Security Services from the date of appointment to till date from the common establishment charge account and later recover the same from the said proceeds.''

5. The learned single Judge dismissed the application by taking note of the fact that the writ petitions filed challenging the auction proceedings having ended in failure, the appellant having stepped into the shoes of the Company / M/s.Akbar Leathers Limited, the issue decided and concluded already cannot be re-opened and agitated once again. Challenging the same, the present appeal has been filed.

6. Learned counsel appearing for the appellant submitted that the property has been sold for a lesser amount than the guideline value fixed. The interest of the other creditors have not been taken note of and there is no equitable distribution involved.

7. The auction sale having been effected much prior to the appointment of the appellant as liquidator of the Company, the finding rendered to that effect by the learned single Judge is perfectly in order. The appellant has merely stepped into the shoes of the Company. The other creditors also filed writ petitions before this Court and lost. The Company itself filed a Writ Petition challenging the auction and lost its case. What is relevant is the market value and not the guideline value. The auction has been conducted by following due procedure. It was also done in exercise of the powers conferred upon the revenue authorities under the Revenue Recovery Act. The 3rd respondent, being a bonafide purchaser of value and the consideration having been passed, coupled with the fact that the sale was effected to comply with the award of the Labour Court, we do not find any merit in this appeal.

8. Accordingly, the appeal is dismissed. No costs. Consequently, the connected miscellaneous petition is also dismissed.

Sd/- सतयमेव जयते
Assistant Registrar
Dated:2.2.15

True Copy

Sub Assistant Registrar

To

The Sub.Asst.Registrar,Original Side, High Court, Madras.

+1 cc to Mr.S.R.Sundar, Advocate,Sr.3671

+1 cc to Mr.M.R.Ravikumar, Advocate,SR.3106.

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