

HON'BLE SRI JUSTICE C.V. NAGARJUNA REDDY

Company Application Nos.757, 1384 & 1409 of 2014

Date : 23-3-2015

Company Application No.757 of 2014

Between:

The Official Liquidator,

High Court of Andhra Pradesh

And the Liquidator of

M/s.Sirsilk Ltd. (In liquidation) .. Petitioner

And

Industrial Development Bank of India,

Represented by its Deputy General Manager,

Hyderabad and others .. Respondents

Counsel for petitioner: Mr. M. Anil Kumar

Counsel for respondent No.1 : Mr. P.V. Markandeyulu

Counsel for respondent No.2 : Mr. Bhanu Murthy Bala

Counsel for respondent No.3 : Mr. S.R.Ashok, Senior Counsel

for Mr. S. Ashok Anand Kumar

Counsel for respondent No.4 : Mr.N. Pramod

Counsel for respondent No.5 : Mr. R. Raghunandan, Senior Counsel
for Mr. T. Vinod Kumar

The Court made the following :

ORDER:

A highly defective survey based on which sale of lands belonging to M/s. Sirsilk Limited (In liquidation) was notified, has led to serious anomalies. While the lands were divided into six Lots and auction was held, the dispute for the present persisted with Lot Nos.3, 5 and 6. Though the sale in respect of these Lots was confirmed by this Court by order dated 30-9-2013 in Company Application No.1960 of 2011, this Court having considered the report dated 27-8-2013 of the Official Liquidator observed that substantial controversy remained unresolved on account of the deficiencies and discrepancies with regard to the extents of properties covered by Lot Nos.2, 3, 5 and 6 as noticed in the later survey report dated 25-2-2013 and keeping in mind the over-all controversy and the need to resolve the dispute, this Court felt it appropriate to direct conduct of official survey in order to localize the land and assets of the company on ground. Accordingly, this Court has directed the Director of Survey and Land

Records, Government of Andhra Pradesh to conduct survey of the lands of the company in liquidation including the actual vacant/unencumbered as well as the encroached lands, if any, with reference to the record of the company and submit a report. In compliance with the said direction, the Assistant Director, Survey and Land Records, Adilabad District, submitted his report vide Rc.No.A3/1351/2013, dated 27-5-2014.

None of the purchasers have filed objections disputing the correctness of the survey report. This survey report reveals that the earlier reports based on which auction of the Lots was held was highly defective. As per the said survey report, the total extent of the land belonging to the company in liquidation in the three villages namely, Kothapeta, Kosini and Chintaguda, is Ac.747.17 cents, out of which Ac.317.63 cents are found vacant; Ac.268.14 cents are found encroached; Ac.76.89 cents are found occupied by roads, nalas etc., and Ac.84.51 cents are occupied by factory and staff quarters. As we are concerned with Lot Nos.3, 5 and 6, with regard to which the disputes persist, it is appropriate to deal with the lands available under these Lots.

With regard to Lot No.3, an extent of Ac.11-37 cents in Sy.Nos.88, 89, 90 and 201 of Kothapet village, Sirpur Kaghaznagar, Adilabad District was notified for sale. As per the latest survey report, Sy.Nos.88, 89 and 90 do not exist in Kothapet village as the said survey numbers are situated in Kosini village. As regards Sy.No.201 of Kothapet village, the said survey number comprises Ac.12-62 cents, out of which an extent of Ac.10-86 cents is under encroachment or occupied by structures and Ac.1-76 cents are shown as occupied by roads.

The position with regard to Lot No.5 is that an extent of Ac.34-63 cents in Sy.Nos.202, 204, 207, 208, 211, 212, 213, 219, 220, 221, 222, 224, 225, 226, 227 and 239 of Kosini village, Sirpur Kaghaznagar was notified for sale. As per the latest survey report, these survey numbers except Sy.Nos.211 and 212, are found

existing in Kothapet village and the entire land is found under encroachments. With regard to Sy.Nos.211 and 212, they do not belong to the company in liquidation.

With regard to Lot No.6, land admeasuring Ac.186-39 cents in Sy.No.69, 69/2, 70, 70/1, 71, 72, 75 to 93, 95 to 113, 116 and 117 of Kosini village was notified, out of which Ac.166-97 cents of land is found available in various survey numbers except Sy.No.77, 78, 79, 80, 81, 82, 83 and 104, which do not belong to the company in liquidation. Thus, under this Lot, as against Ac.186-39 cents of land which was sold, an extent of Ac.166-97 cents was found available after excluding Ac.4-28 cents which was directed to be deleted by order of this Court in Company Application No.662/2009.

Noticing that the survey report dated 27-5-2014 submitted by the Assistant Director, Survey and Land Records, Andhra Pradesh, has exposed serious defects in the previous survey report and auction was conducted based on such a highly defective survey report and the further fact that this Court has confirmed the sale in respect of Lot Nos.3, 5 and 6, this Court has suggested to the parties to agree for a settlement of the disputes by mutual adjustment of the land in the presence of the Official Liquidator. Accordingly, negotiations were held by the Official Liquidator between the parties. The Official Liquidator submitted his report dated 10-10-2014. He has also enclosed the minutes of the meeting held on 8-10-2014 in his office. In the said minutes, it is stated that the bidders of Lot Nos.5 and 6 have amicably agreed for sharing the Engineering college land admeasuring Ac.29-50 cents in Sy.Nos.92, 86, 87 and 85 in 50:50 ratio; that the land adjacent to SPM Kosini village in Sy.No.94, admeasuring Ac.14-50 cents would be taken by Sri B. Venkata Narayana Rao—the bidder of Lot No.6, and the remaining Ac.14-50 cents would be taken by V.Satyanarayana—the bidder of Lot No.5. Both the parties and also Mohd. Ahmed Hussain—the bidder of Lot No.3, have signed the minutes of the meeting. A sketch was also filed along with the minutes. Thus, the dispute arising out of the discrepancies in survey numbers and the location of the lands in Lot

Nos.5 and 6 have been amicably resolved by the parties.

However, the dispute remained with Lot No.3. As noted hereinbefore, the land in Sy.Nos.88, 89, 90 and 201 admeasuring 11-37 cents of Kothapet village was notified for sale. But, Sy.Nos.88, 89 and 90 are found situated in Kosini village as per the latest survey report filed by the Assistant Director and out of the total extent of Ac.12-62 cents in Sy.No.201, an extent of Ac.10-86 cents is under encroachment or covered by structures and Ac.1-76 cents is shown as roads.

Sri S.R. Ashok, learned Senior Counsel appearing for the purchaser of Lot No.3 submitted that his client has offered the highest amount, i.e., Rs.11 lakhs per acre and that he has deposited about Rs.1 crore more than four years back and that it would be a grave travesty of justice if his client is denied any land on the ground that the land as notified for sale is not available.

This Court has suggested to Mr. N. Pramod, learned Counsel for the purchaser of Lot No.5 and Mr. R. Raghunandan, learned Counsel for the purchaser of Lot No.6, to consult their clients who happen to be in the Court and persuade them to agree for an amicable settlement of the dispute in respect of Lot No.3. Both the learned Counsel have convinced their respective clients and submitted that the purchaser of Lot No.5 will give away Ac.1-00 of land in Sy.No.87 of Kosini village and the purchaser of Lot No.6 will give away Ac.2-54 which is shown to be available in Sy.No.88. Sri S.R. Ashok, learned Senior Counsel for the bidder of Lot No.3 has readily accepted this suggestion. He has however submitted that to compensate for the balance land his client may be allotted any land in Sy.No.201 of Kothapet village. He has further submitted that his client is prepared to accept whatever vacant land that is available including the land under encroachment and excluding the land occupied by structures (staff quarters). Mr. P.V. Markandeyulu, learned Counsel for respondent No.1 and Mr. M. Anil Kumar, learned Counsel for the Official Liquidator, submitted that they have no objection for the above adjustments.

In the above facts and circumstances of the case and keeping in

view the best interests of the secured creditors as well as the purchasers, this Court disposes of the Company Applications in the following terms:

1. The Official Liquidator shall execute sale deeds in favour of the purchaser of Lot No.5 (after excluding Ac.1-00 in Sy.No.87) taking into consideration the minutes dated 8-10-2014. The Official Liquidator shall also execute sale deeds in respect of Ac.5-00 of undisputed land which is situate in Sy.Nos.216, 217 and 218 of Kothapet village in favour of purchaser of Lot No.5.
2. In respect of Lot No.6, he shall execute sale deeds for the lands keeping in view the minutes of the meeting dated 8-10-2014, after excluding the available land in Sy.No.88 of Kosini village from Lot No.6.
3. As regards Lot No.3, the official Liquidator shall execute sale deed in favour of bidder of Lot No.3 in respect of the land agreed to be given by the purchasers of Lot No.5 and Lot No.6 as referred in (1) and (2) supra. As regards the balance land to make Ac.11-37 cents, the Official Liquidator shall get the vacant land in Sy.No.201 of Kothapet village belonging to the company in liquidation localized and whatever extent of vacant land that is found available excluding the staff quarters and roads shall be allotted to the bidder of Lot No.3 and see that the total extent of land so allotted to him does not exceed Ac.11-37 cents. If any part of the land in Sy.No.201 of Kothapet village is found under encroachment, the bidder of Lot No.3 is free to purchase the same at his risk without any

responsibility on the Official Liquidator.

4. The Official Liquidator is directed to refund the amount paid by the purchasers of each of the Lots for the short fall in the extents for which money has been collected.

Subject to the above directions, the Company Applications are disposed of.

Justice C.V. Nagarjuna Reddy

Date : 23-03-2015

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