

IN THE HIGH COURT OF JUDICATURE AT PATNA

**Company Appeal (DB) No.10 of 2015
Arising out of
COMPANY PETITION NO. 17 of 2004**

- =====
1. Ishwar Chandra Choudhary
 2. Bishnu Chandra Choudhary
 3. Triloki Nath Choudhary

All sons of Shri Onkar Nath Choudhary, Resident of Ashiana Garden, 11, Balsom Lane, Sonari, P.S. Sonari, Jamshedpur, District- East Singhbhum (Directors of the Ex Management of M/s. Jaiswal Engineering Works Pvt. Ltd., (in Liquidation)

.... Appellant/s

Versus

1. The Official Liquidator, M/s. Jaiswal Engineering Works Pvt. Ltd., (In Liquidation), Maurya Lok Complex, 'A' Block, 4th Floor, Dak Bungalow Road, P.S.- Kotwali, Patna.
2. M/s. Fecor Steel Ltd., a company having its Registered Office at 46-A & B, MIDC Industrial Estate, Nagpur, Maharastra-440028.

.... Respondent/s

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Appearance :

For the Appellant/s :

For the Respondent/s : Mr. Alok Kumar Agrawal, Advocate

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CORAM: HONOURABLE THE ACTING CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE DINESH KUMAR SINGH

ORAL JUDGMENT

(Per: HONOURABLE THE ACTING CHIEF JUSTICE)

Date: 19-12-2016

None has put in appearance on behalf of the appellants.

2. The challenge in the present appeal under Section 483 of the Companies Act, 1956 is to an order passed by the learned Company Judge on 23rd of April, 2015 in Company Petition No. 17 of



2004 whereby, draft sale notice and the terms and conditions of the same were approved with direction that sale notice must be published in two newspapers, one in Hindi and one in English.

3. Learned counsel for the Official Liquidator points out that the order on winding up petition was passed on 31st of July, 2009 and Official Liquidator was appointed as a provisional liquidator. The Official Liquidator has taken over the assets of the Company-in-liquidation but the officers in charge of the company defaulted in submitting the statement of affairs though the same has been filed now. The officers in charge of the Company, now in liquidation, have also not paid the dues of the security services.

4. The present appeal is directed against an order passed by the learned Company Judge approving the draft sale notice and terms and conditions of the same. Once the winding up order has been passed and the Official Liquidator has taken over the assets of the company-in-liquidation, the consequence is that the Official Liquidator is bound to sell the assets of the company so as to pay the creditors including the workman, if any. The learned Company Judge has also noticed the fact that there was an offer of rehabilitation of the company but in the absence of any positive steps of rehabilitation of the company there is no option but to sell the assets of the company-in-liquidation.



5. We do not find any error in the order passed by the learned Company Judge which may warrant interference by this Court.

6. The Company Appeal is, thus, dismissed.

(Hemant Gupta, ACJ)

(Dinesh Kumar Singh, J)

P.K.P.

AFR/NAFR	N.A.F.R.
CAV DATE	N.A.
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