

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 09.11.2016

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THE HONOURABLE Mr.JUSTICE RAJIV SHAKDHER

Comp. A.No.990 of 2016
in C.P.No.71 of 1974

Shri M.Pandian

... Applicant

Vs

The Official Liquidator,
Madras High Court
as the Official Liquidator of
M/s.Southern & Rajamani Transport Pvt. Ltd.,
(In Liquidation)

... Respondent

Application filed under Order XIV Rule 8 of Original Side Rules, 1956, read with Section 7, 9, 11(b) and 19 of Company Court Rules, 1959, to direct the respondent to accept the offer of the Third Party and to sell the property bearing Old Door Nos.52 and 53 and New Door Nos.61 and 62, Thirumayam Main Road, Pudukottai Municipality and comprised in T.S.F.No.8558/17/13, 17/14, 17/15, 17/16 of Pudukottai Village, measuring 1.82 acres for Four Crores Rupees.

For Applicant : Mr.M.J.Jaseem Mohamed

For Respondent : Mr.P.Atchuta Ramaiah
Official Liquidator

ORDER

1. This application is filed by Mr.M.Pandian. Concededly, Mr.M.Pandian, is a third party and has nothing to do, with the company in liquidation, i.e., M/s.Southern & Rajamani Transport Pvt. Ltd.

2. By virtue of this application, Mr.M.Pandian, seeks a direction qua the learned Official Liquidator, to the effect that, he should accept his offer and sell the subject property, to him.

2.1. In the application, the subject property is described as follows:

"Old Door Nos.52 and 53 and New Door Nos.61 and 62, Thirumayam Main Road, Pudukottai Municipality and comprised in T.S.F.No.8558/17/13, 17/14, 17/15, 17/16 of Pudukottai Village, measuring 1.82 acres "

3. Mr.Ramaiah, who appears on advance notice, says, he would resisting the prayer, made in the application.

4. Mr.Ramaiah, also informs me, that there are no liabilities, owed by the company in liquidation, and that, the subject property, is required to be distributed in kind or, in cash, upon sale, amongst the contributories of the company in liquidation.

5. For this purpose, Mr.Ramaiah, has drawn my attention to the order, dated 03.06.2015, passed in Company Application Nos.416 to 418 of 2015.

6. As a matter of fact, a copy of the order, has been placed before me, by the learned counsel for the applicant. A perusal of the order, would show that the court noticed, that there was a dispute, with regard to, who were the contributories of the company in liquidation.

7. The Court, thus, directed the learned Official Liquidator, to settle the list of contributories. The relevant observations, in that behalf, made in paragraph No.6 to 8 of the said order, are extracted herein.

"6. Therefore, in order to help the Official Liquidator, these applications are ordered directing the Official Liquidator to settle the list of contributories within a period of three months from the date of receipt of a copy of this order. Irrespective of what happened to the claim earlier made by G.Senchulakshmi, she should also be given an opportunity by the Official Liquidator to participate in the enquiry before settling the list of creditors. In so far as the claim for damages is concerned, liberty is given to the applicant to revive the same after the settlement of list of creditors.

7. According to the Official Liquidator, the property

is already fenced.

8. He shall put up a notice board in the property, so that third parties do not encroach into the property."

8. Having regard to the aforesaid, this application would not be maintainable, at least, at this juncture. Needless to say, in case, the subject property is put to auction, the applicant could join the process, albeit, in accordance with law.

9. The application is disposed of in the aforesaid terms.

09.11.2016

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RAJIV SHAKDHER, J.

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