

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 03.11.2016

CORAM

THE HON'BLE MR.SANJAY KISHAN KAUL, CHIEF JUSTICE
and
THE HON'BLE MR. JUSTICE R.MAHADEVAN

O.S.A.No.275 of 2010

P.N.Kumar .. Appellant/Applicant

versus

The Official Liquidator
High Court, Madras.
As the Liquidator of:
M/s.Sears Electronics Ltd.,

2. The Director of Industries and Commerce,
Chepauk, Chennai 600 005. .. Respondents/Respondents

Appeal filed under Order 36 Rule 9 of Original Side Rules read with Clause 15 of the Letters Patent Act, against the Judgment and Order made in Company Application No.309 of 2009 in C.P.No.61 of 1992 Application filed to direct the second Respondent to execute the Sale Deed in respect of Plot No.2 Dr.Vikram Sarabhai Instionics Estate Thiruvanniyur, Chennai 41 measuring 0.75 acres as per allotment order No.190632/EE1/84-2 dated 9.10.1995 and assignment dated 9.10.1995 and assignment deed dated 5.2.1998 of the Department of Industeres and commerce Chepauk, Chennai 5 in favour of M/s. Sears Electronics Limited represented by the official Liquidator. dated 27.04.2010.

For Appellant .. Mr.Sri Ram Panchu
Senior Counsel for Mr.K.Mani
For Respondent .. Mr.B.Dhanraj for R.1
Mr.V.Ayyadurai
Addl. Advocate General
assisted by Jayaram Raj
Government Advocate for R.2

J U D G M E N T

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

On hearing the learned counsel for the parties and on perusing the additional affidavit filed on behalf of the

Government as well as the report of the Official Liquidator, it is agreed that the best course of action would be to have the auction of the property in question which is the sole asset in order to enable to get the best price. This in turn would facilitate first the payment of liability of the workmen as well as secured creditors and it is expected that the realisation could possibly be enough to meet these liabilities apart from thereafter meeting the liability of the respondents/authorities. The balance, if any, could be utilized for settling the claim of the unsecured creditors.

2. Learned counsel for the appellant expresses some concern that though he is willing to give up his 50% share in the company in order to facilitate the payment of liabilities, he has also furnished personal guarantees to the secured creditors. Learned counsel for the Official Liquidator states that there is not much he can do unless the secured creditors are ready to come before the Official Liquidator. This would be a matter dependant on the realisation from the property and the approach adopted by the secured creditors, who would in the process get their monies and they alone would consider absolving the appellant from any further liability.

3. In case of difficulty, the appellant is at liberty to approach the Company Court.

4. At the request of the learned counsel for the Official Liquidator, it is clarified that the cost of the auction may be deducted from the proceeds realised.

5. The Original Side Appeal accordingly stands disposed of, leaving the parties to bear their own costs.

Sd/-

सत्यमेव जयते
Assistant Registrar

//True Copy//

Sub Assistant Registrar

1. The Director of Industries and Commerce,
Chepauk, Chennai 600 005.

2 The Sub Assistant Registrar
(Original Side),

Copy to:
3 The Official Liquidator
High Court, Madras.
As the Liquidator of:
M/s.Sears Electronics Ltd.,

+1cc to Mr.K. Mani, Advocate, S.R.No.62732
+1cc to Mr.B.Dhanaraj, Advocate Sr.No.15032 (22/11/2016)
+1cc to the Spl.Government Pleader, S.R.No.62503

UG (CO)
md (15/11/2016)

O.S.A.No.275 of 2010



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