

OD-9-11

IN THE HIGH COURT AT CALCUTTA  
Original Jurisdiction  
ORIGINAL SIDE

IA NO. CA/4/2023  
In CP/598/2004

HANUMAN TEA CO. LTD.  
Vs  
PAWAN TRADING CO.

IA NO. CA/3/2023  
In CP/598/2004

HANUMAN TEA CO. LTD.  
Vs  
PAWAN TRADING CO.

IA NO. CA/2/2023  
In CP/598/2004

HANUMAN TEA CO. LTD.  
Vs  
SUDHIR CREDIT PRIVATE  
LIMITED VS OFFICIAL  
LIQUIDATOR AND ANR

BEFORE:

The Hon'ble JUSTICE RAVI KRISHAN KAPUR

Date : 14<sup>th</sup> March, 2023

*Appearance:*  
*Mr. Suman Dutt, Adv.*  
*Mr. T. Saha, Adv.*

*Ms. Smita Das De, Adv.*

The Court :- This is an application for transfer of this proceeding to the  
National Company Law Tribunal.

It is submitted on behalf of the applicant that in view of the amended provisions of the Companies Act, 2013 and the decisions in *Action Ispat and Power Private Limited-versus-Shyam Metalics and Energy Limited* reported in (2021) 2 SCC 641 and in *A. Navinchandra Steels Private Limited –versus- Srei Equipment Finance Limited and Others* reported in AIR 2021 SC 1180, the proceeding ought to be transferred to the National Company Law Tribunal.

The Official Liquidator is represented and submits that despite the order of winding up having been passed as far back as on 5<sup>th</sup> January, 2017, no effective steps whatsoever have been taken in this liquidation proceeding.

By an order dated 3<sup>rd</sup> February, 2023, this Court had directed the Official Liquidator to take actual physical possession of the assets and properties of the company (in liquidation). Thereafter, by an order dated 10<sup>th</sup> February, 2023, a Co-ordinate Bench had modified an order dated 3<sup>rd</sup> February, 2023 by directing the Official Liquidator to continue in symbolic possession. The secured creditor is also represented and does not object to the transfer of this proceeding to the National Company Law Tribunal.

In view of the amended provisions of the Companies Act, 2013 and the decisions in *Action Ispat and Power Private Limited-versus-Shyam Metalics and Energy Limited* reported in (2021) 2 SCC 641 and in *A. Navinchandra Steels Private Limited –versus- Srei Equipment Finance Limited and Others* reported in AIR 2021 SC 1180, in my view there is no irreversible situation which has arisen warranting this Court in exercising any jurisdiction in this liquidation proceeding.

In such circumstances, there shall be an order in terms of prayer (c) of the Judge's Summons.

In view of the aforesaid, CP/598/2004 stands transferred to the National Company Law Tribunal, Kolkata. All connected applications in CP/598/2004 also stand transferred to the National Company Law Tribunal, Kolkata.

The Department shall treat CP/598/2004 and all connected applications as disposed of insofar as the records of this Court are concerned.

(RAVI KRISHAN KAPUR, J.)

S.Bag