

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 01.08.2017

CORAM:

THE HONOURABLE MR. JUSTICE RAJIV SHAKDHER
and
THE HONOURABLE MR. JUSTICE ABDUL QUDDHOSE

O.S.A.No.195 of 2013

A.K.R.Holdings Private Limited
Rep. by its Director
Mr.N.Nagoor Mohideen,
9/10, Seethammal Extension,
First Main Road, Teynampet,
Chennai - 600 018.Appellant

vs.

1. M. Ravindran
Senior Advocate - Administrator,
Anubhav Group of Companies
(in Liquidation)
2. The Deputy Official Liquidator,
High Court, Madras Respondents

Original Side Appeal No.195 of 2013 filed under Order XXXVI Rule 9 of O.S.Rules read with under Clause 15 of the Letters Patent and Section 483 of Companies Act, to set aside the common order dated 16.07.2012 made in C.A.No.2466 of 2008 in C.P.No.130 of 1999 in so far as directing forfeiture of the amount paid by the appellant to go to the credit of the company's account and thereby direct return of the amount deposited to the appellant.

For Appellant : Mr.V. Raghavachari for M/s. S.Kumar
For Respondents: Mr.B. Dhanraj for R2

JUDGMENT

[Judgment of the Court was made by RAJIV SHAKDHER, J.]

- 1. This appeal has been preferred, against the observations made in the impugned judgment and order dated 16.07.2012, based on an oral plea made on behalf of the appellant i.e., A.K.R.Holdings Private Limited, by Mr.D.S.Rajasekaran, to refund the Earnest Money.

1.1. To be noted, the observations of the learned Company Judge reveal that because, the plea was made orally, the prayer made for refund was rejected and consequently, Earnest Money was directed to be forfeited.

2. Mr.Raghavachari, says that though the appellant could approach the learned Company Judge with an appropriate application for refusal to set aside the forfeiture order and for possible refund of the Earnest Money, the observations made in the impugned judgment and order in so far as the appellant is concerned, will come in his way.

3. Mr.B.Dhanraj, who represents the Official Liquidator informs us that , the administrator has been discharged in the matter.

3.1. Furthermore, Mr.B.Dhanraj also submits that it would be, given circumstances obtaining in the matter, in order for the appellant to approach the learned Company Judge with an appropriate application in that behalf.

4. Having regard to the submissions made by the learned counsel for the parties, the appeal is disposed of with the following directions:

(i) Liberty is given to the appellant to approach the learned Company Judge by way of an appropriate application, albeit, in accordance with law.

(ii) The observations made by the learned Company Judge, in so far as the appellant is concerned, will not come in the way of the adjudication of an application, if any, moved in that behalf by the appellant.

5. The appeal is, accordingly, is disposed of. There shall, however, be no order as to costs.

Sd/-

Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

nl/vsm

TO

The Deputy Official Liquidator, High Court, Madras.

Copy to: The Sub Assistant Registrar
Original Side, High Court, Madras.

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PPA (CO)
EU 29.08.17



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