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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

OFFICIAL LIQUIDATOR'S REPORT NO.104 OF 2018

In the matter of Companies Act
I of 1956;

and

In the matter of Patheja Brothers
Forging and Stampings Ltd.
(In liquidation)

Mr. P. Atchuta Ramaiah, O.L. and Mr. Mahendhar Aithe, Company Prosecutor for O.L. present.

Mr. Ravindra Jankar for Avinash Carrier Pvt. Ltd. Bidder

Mr. prabhakar Gharge - Bidder

CORAM : K.R.SHRIRAM, J.

DATE : 27th June 2018.

P.C.

Considered the report of O.L. This report is taken out for considering the offers received for three plots at M.I.D.C. Satara - 415004 being:-

(I) A-2/2;

(ii) A-3

(iii) E-6

2] Plots A-2/2 and A-3 are being sold together, whereas plot E-6 is being sold separately. Separate valuation reports have also been received from T.P.Katekar.

3] For Plot No.E-6, two offers have been received; one from M/s. Avinash Carriers Pvt. Ltd. and other from Prabhakar Ghatge. Prabhakar Ghatge has offered Rs. 2 Crores 50 lakhs whereas M/s. Avinash Carriers has offered a sum of Rs.3 Crores 79 lakhs. Mr. Prabhakar Ghatge did not want to improve his offer. As the offer of M/s.Avinash Carriers is more than the market value indicated by the valuer, even though the valuation report is dated 16th February 2017, I would still accept the said offer. Moreover, it is the second time this property is being sold. This is another reason for me to accept the offer of M/s. Avinash Carriers Pvt. Ltd. for Plot No.E-6, M.I.D.C. Satara.

4] Now coming to plot Nos. A2/2 and a-3, two offers have been received; one from Swami Milk and Milk Products, Satara and other from Prabhakar Ghatge. Offer of Swami Milk and Milk Products is for Rs.80 lakhs and the same is rejected. This leaves

Prabhakar Ghatge in the field who has offered Rs.6 Crore 5 lakhs but later on improved to Rs.6 Crore 25 lakhs.

5] The valuation report of M/s. T.P.Katekar indicates that though the market value is Rs.8.38 Crores distress value is Rs.6.70 Crores.'

6] Since, this is the second time the auction is taking place and as far as Plot E-6 has received a price almost equal to 94% of the distress value, I would accept this offer of Prabhakar Ghatge to purchase plot Nos. A-2/2 and A-3 for Rs.6 Crores and 25 lakhs.

7] The Apex Court in Kayjay Industries (P) Ltd. Vs. Asnew Drums (P) Ltd. & Ors., reported in A.I.R. 1974 S.C. 133 has observed, that if court sales are too frequently adjourned with a view to obtaining a higher price, it may prove a self defeating exercise. It will be useful to reproduce para7 as under :-

> “7. Certain salient facts may be highlighted in this context. A court sale is a forced sale and, notwithstanding the competitive element of a public auction, the best price is not often forthcoming. The judge must make a certain margin for this factor. A valuer's report, good as a basis, is not as good as

an actual offer and variations within limits between such an estimate, however careful, and real bids by seasoned businessmen before the auctioneer are quite on the cards. More so when the subject matter is a specialised industrial plant, which has been out of commission for a few years, as in this case, and buyers for cash are bound to be limited. The brooding fear of something out of the imported machinery going out of gear, the vague apprehensions of possible claims by the Dena Bank which had a huge claim and was not a party, and the litigious sequel at the judgment debtor's instance, have `scare' value in inhibiting intending buyers from coming forward with the best offers. Businessmen make uncanny calculations before striking a bargain and that circumstance must enter the judicial verdict before deciding whether a better price could be had by a postponement of the sale. Indeed, in the present case, the executing Court had admittedly declined to affirm the highest bids made on May 16, 1969, June 5, 1969 and August 28, 1969, its anxiety to secure a better price being the main reason. If court sales are too frequently adjourned with a view to obtaining a still higher price it may prove a self defeating exercise, for industrialists will lose faith in the actual sale taking place and may not care to travel up to the place of auction being uncertain that the sale would at all go through. The judgment

> debtor's plea for postponement in the expectation of a higher price in the future may strain the credibility of the Court sale itself and may yield diminishing returns as was proved in this very case.”

7] Both the offers for A-2/2, A/3 and E-6 have been accepted subject to fulfilling the terms and conditions of sale. E.M.D. of the unsuccessful bidders be returned by Official Liquidator. Report of O.L. is disposed of accordingly in terms of prayer clauses (a) and (b).

(K.R.SHRIRAM, J.)