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

**OLR NO.115 OF 2018/LIQN.V**
**IN**
**COMPANY PETITION NO.419 OF 2013**

In the matter of Companies Act, I of 1956
And

In the matter of Rajat Pharmachem Ltd. (In Liqn.)

Vidhya Pharmachem Pvt. Ltd. )....Petitioner

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Mr.P.Atchuta Ramaiah-Official Liquidator along with Mr.Mahendhar Aithe-Company prosecutor present.

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**CORAM : K.R.SHRIRAM,J**
**DATE : 18.7.2018**

**P.C.:-**

1. The Official Liquidator has received six offers for the sale of six cars mentioned in the sale notice. The oldest car is more than 12 years old and the latest car is more than 11 years old. The valuation report placed on record based on which the value is mentioned in paragraph-6 of the OLR dated 26.7.2016, also is 2 years old. Indisputably since the last 2 years the cars have been lying idle, unused. There is also zero maintenance. This is the 6th attempt to sell the six cars and every time a fresh advertisement has been issued, the

Official Liquidator has been incurring at least Rs.20,000/- on every occasion.

2 In the circumstances, as observed by the Apex Court in ***Kayjay Industries V/s.Asnew Drums***[1] 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 para-7 as under :-

> "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

1 (1974) 2 SCC 213

> 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."

3 The six bidders had given composite offers for all the cars and the highest offer was given by Bright Star Trading for Rs.2,00,000/- and the next highest offer was given by Saad Traders for Rs.1,60,000/-. Bidders are given opportunity to improve their offer. Saad Traders offered Rs.3,00,000/-, F.D.Enterprises in response offered Rs.3,25,000/- and Saad Traders offered Rs.3,50,000/-. Nobody else was willing to go beyond the offer of Rs.3,50,000/-.

4 In the above circumstances, in my view, any further attempt to sell the cars will fetch a lower value and it would be prudent to dispose of the cars for the price offered by Saad Traders for Rs.3,50,000/-. Therefore, Liquidator may hand over the six cars to Saad Traders upon receiving the balance consideration and complying with the other terms and conditions of the sale notice.

5 Official Liquidator's Report accordingly, disposed in terms of prayer clauses-(a), (b) and (e). EMD of the other bidders to be returned.

**(K.R.SHRIRAM,J)**

Jahagirdar Kiran Ganesh
Digitally signed by Jahagirdar Kiran Ganesh
Date: 2018.07.20 12:56:56 +0530