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

COMPANY APPLICATION NO.29 OF 2018
IN
COMPANY PETITION NO.1068 OF 1997

Tata Sons Limited and Ors. ….Applicants

<u>IN THE MATTER BETWEEN :</u>

Ralli Brothers and Coney
(now known as "Cargill Cotton") ….Petitioner

Vs.

The Official Liquidator of Swadeshi Mills
Company Limited (in Liqn.) ….Respondent

Mr. Karl Tamboly a/w. Mr. Farid Karachiwala, Mr. Nikhil Apte and Ms. Harsheen Madon I/b. Wadia Ghandy and Co. for applicants.
Mr. Amir Arsiwala for Grand Views Estates Private Limited (secured creditors).
Ms. Krishna Baruah I/b. Pragnya for Forbes Limited (secured creditor).
Mr. J.P. Sen, senior advocate a/w. Mr. Omkar Chandurkar for Official Liquidator.
Mr. P. Atchuta Ramaiah, Official Liquidator present.
Mr. Mahendhar Aithe, Company Prosecutor for Official Liquidator present.

CORAM : K.R.SHRIRAM, J.
DATE : 5th SEPTEMBER 2018

P.C.:

1 This application has been taken out for suitably extending the timelines stipulated in the minutes of order dated 26th October 2016, marked as "X" for identification read with order dated 26th October 2016 passed by this Hon'ble Court in Company Application No.565 of 2016 and especially the timelines contained in paragraph 2 (a) and 2 (f) of the aforesaid minutes of order dated 26th October 2016.

2 After this application was taken out, applicants made without prejudice offer to Official Liquidator as reflected in applicants' advocates' letter dated 18th June 2018 bearing reference no.FFK/HC/12118/5288/ 2018. This offer basically was to pay to Official Liquidator value of the four flats on the basis that the building was already constructed and occupation certificate obtained, instead of handing over four new flats as mentioned in clause 2(a) and (b) of the minutes of order dated 26th October 2016 which has been taken on record by this Court on 26th October 2016. As the Court felt that it was an offer worth considering and acceptable offer, on 10th July 2018, the following order came to be passed :

> *1. Mr. Madon states that though this application is for suitably extending the timelines stipulated in the Minutes of Order dated 26th October 2016 in company application no.565 of 2016, applicant has also made without prejudice offer to Official Liquidator as reflected in applicant's advocates' letter dated 18th June 2018 bearing reference no.FFK/HC/12118/5288/2018.*
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> *2. Mr. Sen, counsel for Official Liquidator states that the Court may appoint suitable Valuer except Mr. Yardi Prabhu (since he has already been consulted by applicant) to inspect and submit a report giving the valuation of flats mentioned in paragraph 1 of the letter dated 18th June 2018.*
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> *3. Therefore, B.C. Shah and Associates, Architects and Valuers having their address at 401, 4th Floor, "Shreyas Residency", Podar Road, Santacruz (W), Mumbai – 400 054 (Telephone No.6527 6507, Fax No.24466349) is appointed as Valuer to inspect and submit a report giving the valuation of flats mentioned in paragraph 1 of the letter dated 18th June 2018.*
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> *4. It is clarified that the building is yet to be constructed and the Valuer should prepare the valuation on the basis that the building was already constructed and occupation certificate obtained and for this, he may consider the building plans already sanctioned by various authorities. The Valuer to submit a report within three weeks of receiving a communication from Official Liquidator.*

5. Mr. Madon states that within three days of receiving a communication from Official Liquidator, applicant will put Official Liquidator in funds to pay the Valuer's fees and expenses. Mr. Madon states that applicant will extend all co-operation to Official Liquidator and provide all documents as requested by Valuer forthwith.

6. Stand over to 7th August 2018.

3 Official Liquidator received valuation report dated 7th August 2018 from B.C. Shah and Associates. Copy of this report was also made available to secured creditors, viz., Grand Views Estates Private Limited and Forbes Limited. This was because Mr. Arsiwala, who was appearing for Grand Views Estates Private Limited, wanted to take instructions on valuation report and also consider whether his clients shall be inclined to make a higher offer.

4 Today, Mr. Arsiwala and Ms. Baruah state that their clients are not interested in the four flats and the Court may accept the valuation report. Mr. Arsiwala states that applicant should pay the higher of the price indicated in the valuation report, i.e., Rs.28,25,,52,000/-, which is the value as per the stamp duty and ready reckoner. Mr. Tamboly is agreeable to the same and states that this amount will be paid by applicant no.3 within 60 days from today.

5 Upon applicant no.3 making this payment, Official Liquidator to execute all necessary documents in favour of applicant no.3 within 60 days of receiving payment. Stamp duty, registration charges, GST, if any, etc.

shall be paid by applicants. Even advocates fees for execution of the documents to be incurred by Official Liquidator shall also be paid by applicants.

6 In view of the above, parties are released from the obligations as reflected in the minutes of order dated 26th October 2016.

7 Application accordingly stands disposed.

Gauri Amit Gaekwad
Digitally signed by Gauri Amit Gaekwad
Date: 2018.09.07 12:28:53 +0530

(K.R. SHRIRAM, J.)