

**IN THE HIGH COURT OF JUDICATURE AT HYDERABAD
FOR THE STATE OF TELANGANA AND THE STATE OF
ANDHRA PRADESH**

**THE HON'BLE SRI JUSTICE V.RAMASUBRAMANIAN
AND
THE HON'BLE MS.JUSTICE J. UMA DEVI**

O.S.A. No.19 OF 2014

Between:

IDBI Bank Ltd., Rep. by its General Manager,
IDBI Towers, WTC Complex, Cuffe Parade,
Mumbai and others.

... Appellants

v.

M/s.Allwyn Watches Ltd., (In liquidation)
Rep. by the Official Liquidator, High Court of
A.P., Hyderabad

.. Respondent

For Appellant

: M/s. P. Sriharsha Reddy

For Respondents

: Mr. M. Anil Kumar

Gist

:

Head Note

:

Cases Referred

: Nil



HON'BLE SRI JUSTICE V. RAMASUBRAMANIAN

AND

THE HON'BLE MS.JUSTICE J. UMA DEVI

O.S.A. No.19 OF 2014

JUDGMENT: *(per V. Ramasubramanian, J)*

The appellants, who are secured creditors of a company in liquidation, have come up with the above Intra Court Appeal challenging a direction issued by the Company Court in an application under Section 450 of the Companies Act, 1956.

2. Heard Mr. P. Sriharsha Reddy, learned counsel for the appellants and Mr. M. Anil Kumar, learned Standing Counsel for the Official Liquidator.

3. This appeal arises out of an order passed by the company Court in C.A. No.312 of 2014 under Section 450 of the Companies Act, 1956. The prayer made in C.A. No.312 of 2014, as seen from the Judges Summons reads as follows:

“To direct the official liquidator to make adjudication of claims and distribution of the balance sale proceeds and interest accrued thereon in the account of the Respondent company in liquidation as against the claim of each of the first charge holders, before March 31, 2014 and be pleased to pass such other order or orders as this Hon'ble Court may deem it fit and proper in the circumstances of the case.”

2. The Company Court passed an order on 19.03.2014 in C.A. No.312 of 2014. The operative portion of the said order reads as follows:

“In the light of the above submissions, the Official Liquidator is directed to finalize the claims, issue For-71 in all the cases within a period of five weeks and made appropriate applications for permission for disbursement within one week thereafter.”

3. A look at the prayer made in the application filed by the appellants and the order passed by the Company Court in those applications would show that the prayer made by the appellants has in fact been granted. While so, we do not know how an appeal would arise out of the said order. If, as per the said order, the claims have not been adjudicated and monies have not been paid, that is a matter that the appellants should have taken up before the Company Court. An order passed in favour of the appellants by the Company Court, even if it falls short of their expectations, may not be open to challenge. This is especially for the reason that the very prayer of the appellants before the Company Court, was to adjudicate their claim. According to the learned Standing Counsel for the Official Liquidator, the adjudication has already taken place.

4. If adjudication has already taken place and the appellants were not satisfied, they are entitled to challenge the same. If adjudication has not taken place, the appellants should have brought it to the notice of the Company Court. The question of challenging the order, by which the adjudication is directed to be made on the very prayer of the appellants, would not arise. Hence, the appeal is dismissed. It will be open to the appellants to move the Company Court for the disposal of any applications pending or filed by them

either as against the adjudication or as against the non-adjudication or for the disbursement, if there is any shortfall.

5. As a sequel thereto, miscellaneous petitions, if any, pending shall stand dismissed. No order as to costs.

V. RAMASUBRAMANIAN, J

J. UMA DEVI, J

September 17, 2018.

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