

HON'BLE SRI JUSTICE S.V.BHATT

Company Application No.884 OF 2015

In

Company Petition No.144 OF 2001

ORDER:

Heard Mr.Chandrasen Reddy for applicant, Mr.Jaganada Sharma and Mr.Anil Kumar, Court Appointed Commissioners.

The applicant has moved the instant Judge's summons to restrain respondent Nos.1 to 7 from interfering with possession and enjoyment of the applicant company of land in an extent of Acs.2-15 gts. in Survey No.127 at Rajapur Village, Balanagar Mandal, Mahaboobnagar District, by holding that the applicant company and its nominees have acquired title and that document No.9343/2013 dated 08.10.2013 executed by Sri Gopaiah and Sri Badaiah in favour of Kumar Narayana son of late Sarvaiah is null and void. The applicant prays for a consequential direction to direct the Mandal Revenue Officer and the Revenue Divisional Officer to rectify the revenue records by entering the name of applicant.

The applicant purchased Acs.2-15gts. of land in Survey No.127 at Rajapur Village, Baalanagar Mandal, Mahaboobnagar District in the auction conducted by the Official Liquidator vide sale deed No.5400/2009 dated 28.08.2009. The subject matter of the application was purchased by Southern Udhyan Limited, the company in liquidation, under registered sale deed No.663/1998 dated 21.04.1998. The applicant upon purchasing the subject matter, when tried to enjoy the property as true owner, faced difficulties in getting its name entered in revenue records or

protecting the possession of subject matter from rival claimants viz. respondents 1 to 7. The applicant requested for amendment to the schedule of the sale deed dated 28.08.2009 and the same was considered and accepted by this Court. Notwithstanding such amendment to the schedule of sale deed, the applicant is facing interference from respondents 1 to 7 and hence the instant application for the prayers referred to above.

Mr.Chandrasen Reddy for the applicant and the learned Advocates who were appointed as Court Commissioners to sell the properties of company in liquidation have made submissions at length. This Court is of the view that these submissions could be taken up if company case is still pending in this Court. The undisputed fact as on the date of filing of this application or as on the date is that M/s. Southern Udhyan Limited was already dissolved and company petition closed. In view of dissolution of M/s.Southern Udhyan Limited and no case is pending in this Court, the maintainability of the applicant is first examined. The prayers are substantially in the nature of declaration of applicant's right and title under the document executed by the Court Commissioners and also set aside the registered deed dated 08.10.2013 in favour of one Kumar Narayana, and grant perpetual injunction restraining the respondents from interfering with applicant's possession and issue direction to enter the name of applicant in the revenue records. This Court prima facie is of the view that with the execution of the sale deed in favour of applicant and also the rectification deed, the auction of subject matter held

by the Court Commissioners is completed. For all purposes, with the execution of sale deed, this Court becomes *functus officio* and the procedure under Rule 9 of Companies (Court) Rules 1959 or Sections 446 and 456 is not attracted to consider the prayers now made. This Court cannot be converted into a forum for adjudication of subsequent causes of action faced by purchaser in the Court auction. Further M/s. Southern Udhyans Company was dissolved. Hence, the application is dismissed on the ground that M/s. Southern Udhyans Company is since dissolved and no case is pending before the Company Court. The prayer of applicant is not considered on merits and the dismissal shall not be understood as this Court having expressed a view on merits of the dispute between applicant and respondents. The applicant, however, is given liberty to work out remedies in accordance with law before the Court of competent Jurisdiction.

The application is accordingly dismissed.

S.V.BHATT, J

Date: 14.03.2018
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