THE HON'BLE SRI JUSTICE CHALLA KODANDA RAM

I.A.No.1 of 2018
in
COMPANY APPLICATION No.253 of 2018
and
COMPANY APPLICATION No.301 of 2018

COMMON ORDER:

The brief facts of the case are as follows:

Pursuant to the order, dated 28.11.2012 passed by this Court in R.C.C.No.1 of 2012, for winding up of M/s. Shree Gouraavi Plastic Limited, the Official Liquidator, who was appointed, took charge of the assets thereof and after obtaining permission from this Court vide order, dated 02.04.2014 in COMPA.No.95 of 2014, the Official Liquidator published the sale notice for selling up of the assets on "as is where is" basis. But, no offers were received by the Official Liquidator, who in turn, brought the same to the notice of this Court by way of filing COMPA.No.1086 of 2014, in which, this Court vide order, dated 01.09.2014 granted liberty to the Official Liquidator and the secured creditors of the company in liquidation to make their own efforts for procuring the bidders. Accordingly, the Official Liquidator addressed letters to the secured creditors with a request to procure bidders for purchase of the assets of the company in liquidation. Thereby, the second respondent –

Stressed Assets Stabilization Fund (SASF), Mumbai, addressed a letter to the Official Liquidator stating that the properties of the company in liquidation were valued two years back and requested him to take steps for fresh valuation. In view of the same, the Official Liquidator filed COMPA.No.789 of 2016 seeking to appoint a registered valuer for revaluation of the assets of the company in liquidation and this Court allowed the same vide order, dated 22.09.2016. Upon receipt of such valuation report, the Official Liquidator filed COMPA.No.1652 of 2016, in which, this Court vide order, dated 19.12.2016, directed him to take further steps. Thereafter, the Official Liquidator filed COMPA.No.378 of 2017 and this Court by order, dated 04.04.2017, permitted the Official Liquidator to sell the assets of the company in liquidation through e-auction as one lot on "as is where is" basis by fixing the minimum upset price at Rs.3,08,23,000/- and EMD of Rs.25,00,000/-. Once again, the Official Liquidator published the sale notice in newspapers. However, no offers were received by the Official Liquidator. Having come to know about the same, one Sunil Kumar Jain moved this Court by way of filing COMPA.No.937 of 2017 and this Court closed the same vide order, dated 15.03.2018 on the submission of the Official Liquidator that he would be willing to go for another trial of auction. Finally, with a view to purchase the assets of the company in liquidation on 'as is where is' basis for a sum of Rs.3,25,00,000/- by promising to deposit the same within 72 working hours of the confirmation order, the said Sunil Kumar Jain filed COMPA.No.253 of 2018. After taking into consideration the submission made by the learned counsel for the applicant that the applicant was willing to purchase the property for a sum of Rs.3,50,00,000/- and was ready to deposit such amount within one week from the date of confirmation of sale, this Court allowed the said COMPA.No.253 of 2018 vide order, dated 02.05.2018 by directing the Official Liquidator that on receipt of the amount, he shall take steps for execution of necessary documentation and to handover possession of the property to the applicant. While so, on 12.06.2018, the applicant deposited a sum of Rs.3,50,00,000/- through a Demand Draft bearing No.000310, drawn on Axis Bank, Beeramguda Branch, and the same was acknowledged through receipt No.11972.

Thereafter, COMPA.No.301 of 2018 came to be filed by M/s.Parko Traders Private Limited seeking permission of this Court to purchase the assets of the company in liquidation for a sum of Rs.3,56,40,000/- with a request to conduct bidding between themselves and the applicant in COMPA.No.253 of

2018. Taking the said aspects into consideration, the Company Judge desired to get the first-hand knowledge about the condition of the property. Thereupon, the Company Judge along with the Official Liquidator and his counsel visited the site on 09.08.2018 and issued a direction to the Official Liquidator to clean the entire premises so as to ascertain the true value. In the interregnum period, there were other offers received by the Official Liquidator for purchase of the same at Rs.4,50,00,000/-.

At this stage, the applicant in COMPA.No.253 of 2018 filed I.A.No.1 of 2018 seeking to issue directions to the Official Liquidator to refund the amount deposited by him together with accrued interest.

Learned counsel for the applicant in COMPA.No.301 of 2018 contends that notwithstanding the permission granted to the Official Liquidator to sell the assets of the company in liquidation in favour of the applicant in COMPA.No.253 of 2018, the Company Court may not confirm the sale in favour of such applicant when there is possibility of obtaining higher price.

Learned counsel for the Official Liquidator submitted that it would be open for this Court not to confirm the sale when there is a possibility of realizing substantially higher amount for the assets of the company in liquidation.

This Court is in agreement with the aforesaid contentions.

In the light of the aforesaid developments, particularly, in view of the fact that the assets of the company in liquidation would fetch higher price than Rs.4,50,00,000/- and that the applicant in I.A.No.1 of 2018 is willing to accept the refund of the amount deposited by him with accrued interest, I.A.No.1 of 2018 deserves to be disposed of.

In those circumstances, as it is stated that the amount deposited by the applicant in I.A.No.1 of 2018 in COMPA.No.253 of 2018 is in a Fixed Deposit, the Official Liquidator is directed to refund the deposited amount together with interest accrued thereon to the applicant within a period of seven days from the date of receipt of a copy of this order. Further, the Official Liquidator shall take necessary steps for confirming the sale of assets of the company in liquidation in favour of the purchaser who pays higher price.

With the above directions, I.A.No.1 of 2018 in COMPA.No.253 of 2018 and COMPA.No.301 of 2018 are disposed of.

CHALLA KODANDA RAM, J

30th OCTOBER, 2018.

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