

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

OFFICIAL LIQUIDATOR'S REPORT NO.207 OF 2019

IN

COMPANY PETITION NO.1159 OF 2015

In the matter of Companies Act, I of 1956 ;

And

In the matter of Cottstown Fashions Ltd.

(In Liqn.)

Mr.Mahek Gala & Mr.Paresh Sawant bidders present.

Mr.Mahendhar Aithe Company prosecutor for OL present.

CORAM : K.R.SHRIRAM,J

DATE : 30.8.2019

P.C.:-

1. The report is for confirming the sale of two Honda City Cars bearing registration No.MH-03 AZ 8918 and MH-03 AZ 9187.

2. Official Liquidator has received 5 offers, one from S.N.Brothers offering Rs.1,20,000/- for both cars, Mr.Mahek Gala and Mr.Manan Gala offering Rs.1,00,000/- each for the two cars and Mr.Paresh Sawant offering Rs.1,00,000/- for each of the two cars. The representative of Mr.Mahek Gala and Mr.Manan Gala is present and Mr.Paresh Sawant is also present in Court. They were asked to improve their offers. Both initially increased the offers to

Rs.1,25,000/- each and finally representative of Mr.Mahek Gala and Mr.Manan Gala gave final offer of Rs.1,35,000/- each for the two cars. Both the cars are of 2011 vintage and have been lying unused for many years. As per the valuation report which is dated 14.11.2018, the fair market value of the 2 cars is Rs.1,50,000/- each. 8 months have passed since then and the cars have been exposed to one more season of monsoon.

3. In the circumstances, as observed by the Apex Court in ¹*Kayjay Industries (P) Ltd., V/s.Asnew Drums (P) Ltd., & Ors.* 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

1 1974 AIR 1331

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 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.”

4. In view thereof, in my opinion Rs.1,35,000/- that has been offered by Mr.Mahek Gala and Mr.Manan Gala for each of the two cars is reasonable offer and should be accepted.

5. Accordingly, prayer clause-(b) is granted. Official Liquidator shall transfer the cars only in the name of Mr.Mahek Gala and Mr.Manan Gala upon payment of Rs.2,70,000/-. EMD of Rs.50,000/- each to be adjusted and balance of Rs.1,70,000/- to be paid as per the terms and conditions. Official Liquidator shall not transfer the cars to any nominee or sign blank transfer papers.

Official Liquidator's Report accordingly disposed.

(K.R.SHRIRAM,J)