

THE HON'BLE SRI JUSTICE CHALLA KODANDA RAM

COMPANY APPLICATION No. 9 OF 2019

ORDER:

This Application was taken out under Section 450 of the Companies Act, 1956 read with Rule 9 of the Companies (Court) Rules, 1959 seeking a direction to the Official Liquidator to execute and register the regular sale deeds in favour of the applicant and its nominees, duly showing the boundaries for the entire land covered under lot No.7.

The applicant herein was the successful bidder in respect of lot No. 7 comprising Acs.118.28 cents at Duttaluru, Nellore District for a sum of Rs.57 lacs in the auction conducted by this Court on 01.08.2006 and its offer was accepted on 04.08.2006. Thereafter, when they attempted to pay the balance sale consideration, the Official Liquidator did not allow them to do so, for, the Appeals filed against the company under liquidation are pending. Hence, the applicant had taken out Company Application No. 747 of 2010 in September 2010 seeking a direction to the Official Liquidator to execute the sale deeds, since their office was insisting on a specific direction by this Court in view of the long lapse of four years from the date of confirmation of sale. Since the sale in favour of the applicant was confirmed as long back as in 2006, and in view of the fact that there was no default in performing the contract on the part of the applicant, this Court *vide* order dated 19.04.2011, allowed Company Application No. 747 of 2010 and permitted the applicant to remit the balance sale consideration within four weeks from that day and on such payment, the Official Liquidator was directed to execute the registered documents in favour of the applicant or their nominees

and deliver possession of the properties covered by lot No. 7 following due process of law.

Pursuant to the above direction, it is stated, the applicant had remitted the balance amount of Rs.39,60,000/- on 11.05.2011 by way of demand draft and the Official Liquidator had handed over the symbolic possession of the subject property to the authorised representative of the applicant on 20.05.2011 and addressed a letter on the even date to the Station House Officer, Udayagiri Mandal, SPSR Nellore District to provide the certified copies of the documents listed therein to the authorised officer of the applicant, but the later did not furnish the same. The requests / representations made by the applicant thereafter were not honoured. Hence, the applicant had taken out again the present Application seeking a direction to the Official Liquidator to execute / register the regular sale deeds in favour of the applicant / its nominees by fixing the boundaries for the entire subject land.

In the counter-affidavit filed by the Official Liquidator, it is stated that pursuant to the order dated 19.04.2011 in Company Application No. 747 of 2010, the applicant remitted the balance sale consideration and on such payment, the Official Liquidator had handed over the symbolic possession of the land to Mohammed Haneef Masood, who was the proprietor of M/s Tasleem Enterprises to an extent of Acs.118.28 situated in various survey numbers at Lakshmipuram, Vengamambapuram, Udayagiri Mandal, without execution of sale deed on 20.05.2011. It is further stated that as the purchaser had never approached thereafter, sale deeds were not executed so far. In the present Application, it is mentioned that Mohd. Haneef Masood, who was the Proprietor of M/s Tasleem Enterprises, died and his wife viz.

Mrs. Zehra Bee, who stepped into the shoes of her husband, had executed power of attorney in favour of Sri Kutubuddin Suri to look after the affairs of the enterprises including Court cases, however, in the General Power of Attorney, nowhere it was mentioned about the death of Mohd. Haneef Masood nor any proof of death was filed. Hence, it is requested that the applicant may be directed to place the factual position with necessary documents, so as to enable this Court to take appropriate decision in the matter.

Heard learned counsel for the applicant as well as learned counsel appearing for the Official Liquidator.

Undisputedly, the applicant was the successful bidder in respect of lot No. 7 comprising Acs.118.28 cents at Duttaluru, Nellore District for a sum of Rs.57 lacs in the auction conducted by this Court on 01.08.2006 and its offer was accepted on 04.08.2006. Hence, the Official Liquidator is directed to register the sale deeds in respect of the property in question, in favour of the applicant / its nominees. The expenditure necessary therefor shall be borne by the applicant. Thereafter, in the capacity of the registered owner of the property, it would always be open for the applicant to approach the revenue authorities and seek mutation of their names in the revenue records, and wherever necessary, it would also be open for the applicant to seek identification and demarcation of the boundaries through the survey and boundaries Department.

The Company Application is accordingly, allowed.

CHALLA KODANDA RAM, J

8th July 2019

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