IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CP-113-2016 (O&M)
In CP-164-1997
Date of Decision: 03.05.2019

RAJ KHURANA AND ANR ...Petitioners

Vs.

M/S SUNFIN OILS LTD. ...Respondent

CORAM:- HON'BLE MR.JUSTICE RAJIV NARAIN RAINA

Present: Mr. Kamal Sehgal, Advocate for the petitioners.
Mr. Deepankur Sharma, Advocate with
Mr. O.P. Sharma, Official Liquidator.

RAJIV NARAIN RAINA, J. *(Oral)*

CA No. 77 of 2017

CA is allowed as prayed for.

Amended memo of parties is taken on record.

CP No. 113 of 2016

1. The petition presented earlier for permission to revive the company (in liquidation) suffered a major setback when the company was unable to settle its differences with IFCI. That petition was rejected on 09.10.2015. An appeal was carried against the order in which final orders were passed on 08.02.2016 with the observations made in operative paragraph Nos. 5 & 6, which are reproduced below:

> *"5. Whether all dues of the company have been settled or not must be decided only in a properly constituted proceedings for taking the company*

> *out of liquidation. This would require such an application being advertised so that all the parties concerned in the winding up are put to notice of the same and have an opportunity of opposing the same, if they so desire.*
>
> *6. The appeal is, therefore, dismissed."*

2. Mr. Sehgal appearing for the ex-Directors of the company has submitted that the dispute with the secured creditor (IFCI) has been settled and on 11.05.2016 IFCI has issued 'No Dues Certificate' (Annex. A-5). The stumbling block has been put out of the way. Not only this, the ex-Directors have deposited an amount of Rs. **5,56,388/-** with the Official Liquidator towards satisfaction of claims of unsecured creditors. This amount was deposited on 18.12.2008. In addition, the ex-Directors have paid a sum of Rs.**5,56,784/-** towards watch and ward charges of the property of the company (in liquidation).

3. In an out of Court settlement and without involving office of the Official Liquidator, the Ex-Directors have mutually settled their liability towards watch and ward charges with the security agency to which the Official Liquidator has not objection except that future payments which have accrued would be the liability of the Ex-Directors to discharge. For this payment Mr. Sehgal undertakes that his clients are ready and willing to settle the matter with the security agency. To reflect such a settlement of up to date dues with the security agency, the Ex-Directors would file an affidavit with the Official Liquidator

deposing true facts and figures of the settlement up to date for the record of the Official Liquidator so that no dispute remains thereafter.

4. When due compliances are made as required by this order or by any hurdle in the company law and rules framed thereunder, the charge of the Company (in liquidation) would be handed back to the Ex-Directors for them to resume business. Other formalities, if any, required to be completed will be mutually carried out between the Ex-Directors and the Official Liquidator.

5. With these observations and directions, the petition is allowed subject to necessary compliances as envisioned in this order and the law. Thereupon, the winding up order shall stand recalled and the winding up petition would stand dismissed.

(RAJIV NARAIN RAINA)
JUDGE

03.05.2019
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Whether speaking/reasoned : Yes
Whether reportable : Yes/No