

IN THE HIGH COURT OF JUDICATURE AT PATNA
COMPANY PETITION No.8 of 1999

MR.T.N.BITHAR

... .. Petitioner/s

Versus

M/S HELIOS CORPORATION LTD.

... .. Respondent/s

Appearance :

For the Petitioner/s

:

None

For the Respondent No. 1

:

Mr. Madhav Roy, Advocate

Mr. Rabindra Nath Tiwari, Advocate

**CORAM: HONOURABLE MR. JUSTICE SANJEEV PRAKASH
SHARMA**

ORAL ORDER

129 06-04-2023

No one appears for the petitioner.

Learned counsel appearing for the respondent states that in another case disposed of by this Court in Company Petition 4/2000, decided on 21.02.2023, it has already been directed to the respondent Corporation to make good any amount which is claimed by the depositors. The petitioner has filed this claim wrongfully and fraudulently and the list placed is a forged list and the documents are false and fabricated.

I have perused the record and find that after filing of this reply, no one has appeared for the petitioner. From the perusal of the petition, it is noticed that certain list has been mentioned about the investors but several of their names have been mentioned by him. The S.E.B.I has passed an order for the repayment of this amount to the depositors and this Court in Company Petition 4/2000, dated 21.02.2023 has directed as under:-

“30. However, it has come on record and



admitted by the respondent- Company that SEBI has initiated proceedings against it under Section 11 of the Act of 1992 and held the offer of OCDs issued by the Company as Sun Bonds were in violation of the provisions of the Securities and Exchange Board of India (Issue of Capital and Disclosure Requirements) Regulations, 2009 as well as the Act of 1992. The order passed by the SEBI is required to be implemented and amount made good to the concerned depositors by the Company as directed by the SEBI vide its order dated 06.03.2018. It has also come on record that the award passed by the SEBI having not been complied with because of the interim order passed by this Court was made a subject matter of recovery proceeding and the recovery officer has issued a certificate of recovery and attached bank accounts of the Company and its directors. The miscellaneous appeal was dismissed by the Appellate Tribunal, Mumbai on 01.10.2021. The respondents have prayed for de- freezing of their account in order to implement directions of SEBI.

31. In the opinion of this Court, the issue relating to compliance of SEBI's award is with the recovery officer and it would be in the interest of the claimants that their amounts deposited by way of bonds be refunded. Since this Court has reached to the conclusion that the winding up proceedings initiated by the RBI are not in accordance with law, and the provisions of Section 45-MC of the RBI



Act would not be applicable to the respondent company it would be in the interest of the depositors that the account of Company is de- freezeed and in supervision of recovery officer the depositors be refunded their amount. The interim order passed by this Court restraining the respondent from disposing its assets is vacated with a further condition that the assets of the Helios corporation shall be sold and the claims of depositors as directed by the SEBI shall be meted out by the directors within a period of nine months from the date of passing of this order. Since the company is in operation its directors shall be free to move appropriate application before the recovery officer SEBI to allow the accounts to be de-freezed. For the purpose, the recovery officer shall be allowed to supervise and process the refund of amount to the concerned depositors within the aforesaid period of eight months.”

Keeping in view above, this Court disposes of the present Company Petition and directs that the petitioner would be free to prove his claim in terms of the order passed earlier. The Company Petition is dismissed with the aforesaid observations.

(Sanjeev Prakash Sharma, J)

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Item No. 62

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