

IN THE HIGH COURT OF JUDICATURE AT PATNA
COMPANY APPEAL(DB) No.1 of 2018

1. Mata Bhagwati Deities and Anr Village Maksudpur, District Gaya through their Savait, Ajai Singh, son of Late Shri Ram Kishore Prasad Narain Singh, resident of Maksudpur Garh, Village Maksudpur, P.S. - Khizersarai, District - Gaya.
2. Anil Kumar son of Late Biteshwar Singh resident of Village Chainpura, P.S. Parasbigha, District Jehanabad, presently residing at Maksudpur Kothi Old West Campus, adjacent South to Maksudpur Cold Storage Building, Mohlla Tootbari, Chowk Road, P.S. Kotwali, District Gaya.

... .. Appellant/s

Versus

Official Liquidator

... .. Respondent/s

Appearance :

For the Appellant/s	:	Mr. Nilanjan Chatterjee, Advocate
		Mr. Santosh Kumar, Advocate
		Mr. Sahil Kumar, Advocate
		Mr. Pulkit Ranjan, Advocate
		Mr. Ujjwal Raj, Advocate
For the Respondent/s	:	Mr. Alok Kumar, Advocate

CORAM: HONOURABLE MR. JUSTICE P. B. BAJANTHRI
and
HONOURABLE MR. JUSTICE ARUN KUMAR JHA
ORAL ORDER

(Per: HONOURABLE MR. JUSTICE P. B. BAJANTHRI)

12 18-08-2023 Official Liquidator has filed counter affidavit and the same is taken on record.

2. In the instant Company Appeal, the appellant has assailed the order dated 08.02.2018 passed in Company Petition No. 2 of 1975.



3. Perusal of the records, it is evident that petitioner in the Company Petition No. 2 of 1975, has not been arrayed as party to this Company Appeal No. 1 of 2018. Even though, one Mr. Ajay Singh @ Ajay Kishore Singh filed intervening application and it was considered in the following manner:-

“Intervention-applications by Ajay Singh @ Ajay Kishore Singh at flags 142 and 143 along with the report of the official Liquidator at flag 144 have been put up for consideration. The application at flag 142 stood rejected for non-compliance of order no.141 dated 30.8.96. The intervenor accordingly filed the other petition (flag 143) which is virtually carbon copy of the previous petition, making several prayers. The intervenor, inter alia, wants to be added as a party in the present winding-up proceeding, a fact-finding enquiry to be held into the affairs of the Company. He also wants certain interim orders. Notwithstanding the rejection of the previous intervention-petition (flag 142), keeping in view the interest of the Company, on 30.7.96 Mr. Kalyan Kumar Ghose, counsel for the O.L. was directed to look into the matter and give necessary instructions to the O.L. In the report at flag 144 it has been stated that at O.L. has been advised to make enquiry as regards the suit filed by United Bank of India and allied matters but on account of paucity of fund in the account of the Company, the O.L. is not in a position to visit Gaya for the Purpose of enquiry. Accordingly prayer has been made for one month's time and for direction to the intervenor to remit a sum of Rs.1000/- (one thousand) as cost.

The O.L. is directed to visit Gaya with reference to the fact, stated in the intervention-petition (flag 143) and submit a report within four weeks. He shall also submit bill of expenses. The intervention-petition shall abide by result of the enquiry and be considered after receipt of the report.”



4. Whereas the present petition is filed by Mata Bhagwati Deities & Anil Kumar, they are not party to the Company Petition. Further, we have noticed that in the present Company Appeal, petitioner (Makshudpur Refrigeration) in Company Petition No. 2 of 1975 has not been arrayed as necessary and proper party. On these technicality, the present Company Appeal is not maintainable.

5. Accordingly, present Company Appeal stands dismissed.

(P. B. Bajanthri, J)

(Arun Kumar Jha, J)

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