

**IN THE HIGH COURT OF JUDICATURE AT PATNA
COMPANY APPEAL(DB) No.6 of 2022**

**In
COMPANY PETITION No.3 of 1984**

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Ex-worker of Rohtas Industries Ltd (in liquidation) and its sister concern through to its authorized representative Girija Nandan Singh @ G.N. Singh, son of Late Kapildeo Singh, resident of Quarter No. J/15 Dalmianagar, Rohtas.

... .. Appellant/s

Versus

Rohtas Industries Ltd (in liquidation) through its officials liquidator.

... .. Respondent/s

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Appearance :

For the Appellant/s : Mr. Rakesh Narayansingh, Advocate

For the Respondent/s : Mr. Gautam Kumar Kejriwal, Advocate

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**CORAM: HONOURABLE MR. JUSTICE P. B. BAJANTHRI
and
HONOURABLE MR. JUSTICE JITENDRA KUMAR
ORAL JUDGMENT**

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

Date : 04-08-2023

The present Company Appeal No. 6 of 2022 is filed insofar as challenging the order of the learned Company Judge dated 10.11.2022 passed in Company Petition No. 3 of 1984.

2. Learned counsel for the appellant submitted that his application bearing No. 319 of 2022 has not been considered in proper spirit with reference to the order dated 25.09.2018 passed in Company Appeal (DB) No. 2 of 2014. In support of this, he relied on paragraph No.17 (A) of order dated 10.11.2022 which reads as under:



“(A) As observed earlier, all the occupants shall have to vacate and hand-over the possession of the quarters of the company. The Official Liquidator shall prepare a list of quarters which are occupied by the ex-workers their relatives, heirs or representatives. Such quarters shall be kept separately for auction amongst the set of ex-employees or their legal heirs alone, no third person would be entitled to participate in auction relating to those properties. It is made clear that a person who had occupied quarter no. A would also be entitled to participate in auction for quarter no. B and vice-versa.”

2.1 Read with paragraph 6 of the O.L.R. No. 2 of 2014 *vide* Annexure - 5 and reiterating that One Man Commission report is binding on the respective parties, therefore, learned Company Judge has committed error in deviating from the One Man Commission’s report and proceeded to pass order.

3. *Per contra*, learned counsel for the respondent resisted the aforesaid contentions and submitted that there is no infirmity in the learned Company Judge order dated 10.11.2022 passed in Company Petition No. 3 of 1984. He has pointed out paragraph Nos. 15 and 17, suffice to deviate One Man Commission’s report. It is also submitted that the price fixed by the One Man Commission is unreasonable and in the absence of



relevant yardstick like market value and other issue to determine value of land.

4. Heard learned counsels for the respective parties.

5. Learned counsel for the appellant submitted that learned Company Judge has committed error in deviating the One Man Commission's report read with the Division Bench order of this Court dated 25.09.2018 passed in Company Appeal (DB) No. 2 of 2014. It is necessary to reproduce order of the Division Bench dated 25.09.2018 which reads as under:

“Heard the parties.

The appellant is aggrieved by last paragraph of the order, by which the Office Liquidator was directed to personally visit Dalmianagar and find out not only the number of quarters, whether in occupation of workers or others or vacant, but also its present market value which can be fetched if at that point of time the property was put on auction.

The appellant is Ex-workers of Rohtas Industries Ltd. claiming to be residing in the quarter.

However, that direction of the Court has decided nothing. The exercise is only to obtain the market value of the quarter at that point of time. The appellant would not be precluded from raising his objection including that there should be order/direction in consonance with the findings of one man commission.

Accordingly, granting such liberty to the appellant, the appeal stands disposed of being premature



as no tangible threat has been made on the claim of the appellant.”

6. Perusal of the aforementioned order of the Co-ordinate Bench, it is only observation made by the Co-ordinate Bench to the extent that appellant was permitted to file his objection. Accordingly, appellant has filed objection and it is numbered as 319 of 2020. The same has been taken note of by the learned Single Judge while passing the order on 10.11.2022.

7. One man commission report and finding which has been quoted in paragraph 6 of O.L.R. No. 2 of 2021 was highly unreasonable with reference to the paragraph No. 14 of the order of the learned Company Judge dated 10.11.2022. In the light of these facts and circumstances, there is no infirmity in the order dated 10.11.2022 passed in Company Petition No. 3 of 1984. Hence, the present Company Appeal No. 6 of 2022 stands dismissed.

8. At the stage, learned counsel for the appellant submitted that in identical matter, in Company Appeal No. 8 of 2022 in Company Petition No. 3 of 1984, the Court has referred the matter to the Single Judge. We have perused the order dated 26.07.2023 passed in Company Appeal No. 8 of 2022 in Company



Petition No. 3 of 1984. It is necessary to reproduce the order.

Order dated 26.07.2023 reads as under:

“In the instant company appeal, appellants have prayed for the following relief(s):-

“That the Appellants (petitioners-appellants) are filing the present appeal for setting aside the order dated 14.10.2022/10.11.2022 (so far as it relates to the petitioners-appellants) passed by Hon’ble Mr. Justice Sanjeev Prakash Sharma, the Hon’ble Company Judge in Company Petition No. 03/1984 whereby and whereunder while considering I.A. No. 313/2022 filed on behalf of the present appellants has been disposed of with a direction to the Official Liquidator to prepare a list of the quarters which have been vacated and handed over and thereafter allow the ex-workers, their relatives or the outsiders to participate in the auction. Directions have also been issued by the Hon’ble Judge to vacate and hand over the possession to official liquidator within one month failing which they shall be evicted by taking help of the local administration and police authorities by the official liquidator. The petitioners alternatively pray for being extended the same benefit which has earlier been granted by the Company Judge vide order dated 31.05.2007 while adjudicating the applications (marked as Flag No. 733) through which upon the undertaking given by the present petitioners-appellants they have been allowed to continue in the possession of their respective flats until the quarters are sold in favour of auction purchasers.”

2. In the instant company appeal, appellants have questioned the validity of order dated 14.10.2010 passed in various Interlocutory Applications arising out of Company Petition No. 3 of 1984. On 14.10.2022 various



directions have been issued. The appellants are aggrieved by the directions issued in Para 18. Para 18 reads as under:-

“18. As regards the other quarters which are occupied by outsiders are concerned, they shall be put to auction as an open auction for one and all. The occupants are liable to vacate and hand-over possession to the Official Liquidator within one month failing which they shall be evicted by taking help of the local administration and police authorities by the Official Liquidator. No Civil Court or Tribunal shall have any jurisdiction to entertain any suit or application with regard to possession or claim relating to the properties.”

3. Learned counsel for the appellants submitted that on 31.05.2007, Company Court has passed certain orders on the appellants Interlocutory Application. Extract of the order reads as under:-

“In response to the sale notice for sale of dry woods, seven offers have been received. The offerers are present in Court and in their presence the offers are opened, which are as follows:

Name of the Offerers	Offered amount	Security deposit
Sajid Parwez	Rs. 1,56,151/-	Rs. 10,000/-
Mukhatar Alam	Rs. 1,57,786/-	Rs. 10,000/-
Singh Brothers	Rs. 1,31,105/-	Rs. 10,000/-
Sheo Pujan Choudhary	Rs. 1,55,250/-	Rs. 10,000/-
Ram Raj Sah	Rs. 1,30,000/-	Rs. 10,000/-
Ganga Pd Choudhary	Rs. 1,30,000/-	Rs. 10,000/-
Ashok Sharma	Rs. 1,16,000/-	Rs. 10,000/-

Offerers were given opportunity to revise their offers. After revision of the offers, Sri Sajid Parwez became the highest offerers were given opportunity to revise their offers. After revision of the offers, Sri Sajid Parwez became the highest offerer, as his final offer is Rs. 1,95,000/-, Sri Sheo Pujan



Choudhary became the 2nd highest offerer, as his final offer is Rs. 1,91,000/- and M/s Singh Brothers became the 3rd highest offerer as its final offer is Rs. 1,61,000/-. Accordingly, sale is finalized in favour of Sri Sajid Parwez, the highest offerer at Rs. 1,95,000/-. He is directed to deposit the balance amount of sale consideration within two weeks from today and thereafter he be issued sale letter and given permission to remove the purchased items.

Let the security deposit of 2nd and 3rd highest offerers be kept with the Official Liquidator and once the balance amount of sale consideration is deposited by the highest offerer, the security deposit of 2nd and 3rd highest offerers be refunded. The security deposit of other offerers be returned today itself.

As prayed for by the counsel for the Bihar State Electricity Board, put up flag 728 in 3rd weeks of July, 2007 when the request of the CISF shall also be considered.

Considered the request of M/s Rahul Enterprises, as contained in flag 725 regarding removal of the waste papers, which was purchased by them in response to sale notice dated 7.3.2006. They are directed to remove the same as early as possible, in any case within three weeks from the date of issue of letter for removal of waste papers by the Official Liquidator.

Official Liquidator is directed to issue sale letter within two weeks from today.

It is made clear that hereafter no further extension for removal of the waste papers shall be allowed.

Flag 725 is, accordingly, disposed of.

Learned counsel for the Railways submits that he be handed over the minutes evidencing handing over possession of the Dalmianagar Industrial complex to the Railways so that he may be able to pin point the items within the Industrial Complex which stood sold even prior to sale of the Industrial Complex to the Railways.

Official Liquidator pointed out that in the minutes itself, it has been recorded that the records of the Rohtas Industries lying within the Complex shall be allowed to be removed from the complex to the premises of



the company in liquidation out side the complex within the possession of the Official Liquidator but such removal is not being permitted by the watch and ward staff of the Railways posted there.

Learned counsel for the Railways is called upon to look into the matter and ask the authorities of the Railways to honour their commitment already recorded in the minutes.

Put up flags 726, 729, 730 and 731 in 3rd weeks of July, 2007.

Perused the request of the Official Liquidator to appoint an Architect for carving out suitable blocks in the premises of Guest House and other buildings of the Rohtas Industries so that the same may be sold out in the blocks.

For this purpose, instead of engaging Architect from the open market, it is advisable that the Director, NIT, Patna be requested for sparing the services of the faculty members or students for taking on the spot job by way of practical training/ experience to assist this Court in carving out suitable blocks and accordingly, the Official Liquidator is directed to request the Director, NIT, Patna to spare students/ faculty members for such responsibilities.

Flag 732 is, accordingly, disposed of.

Perused the request of 41 petitioners of flag 733, whereunder they have requested the Official Liquidator not to disturb their possession until the quarters are sold in favour of auction purchasers as they are presently paying rent fixed by the Rent Committee and they have also undertaken to give vacant possession if they fail to purchase the quarters in the sale proceedings.

Let the local administration not disturb the possession of 41 petitioners.

Flag 733 is, accordingly, disposed of.”

4. In the light of aforementioned facts and circumstances, it is contended that order dated 14.10.2022 is contrary to the order dated 31.05.2007 passed by the jurisdiction Company Court. If Company Court has committed error while passing order on 14.10.2022 and in



not taking note of the earlier order dated 31.05.2007 in such an event appellants have remedy of filing Interlocutory Application to recall the order dated 14.10.2022 and reconsider the order dated 31.05.2007 passed in Company Petition No. 3 of 1984. Therefore, the appellants have not made out a case so as to interfere with the order dated 14.10.2022.

5. Accordingly, the present company appeal stands disposed of. Reserving liberty to the appellants to approach Company Court. In the event of appellants approaching the Company Court, Company Court is requested to decide the appellants grievance at the earliest.

9. The aforementioned order dated 26.07.2023 cannot be compared with the factual aspects of application No. 319/2020 read with Company Appeal. Accordingly, the above cited decision on behalf of the appellant stands distinguished.

(P. B. Bajanthri, J)

(Jitendra Kumar, J)

GAURAV S./-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	09.08.2023
Transmission Date	NA

