

IN THE HIGH COURT OF JUDICATURE AT PATNA
COMPANY APPEAL(DB) No.8 of 2022

In
COMPANY PETITION No.3 of 1984

-
1. Amarnath Singh Son of Parshram Singh, Resident of Quarter No. K-17, Dalmia Nagar, P.S. and P.S- Dalmia Nagar, District- Rohtas.
 2. Brij Mohan Singh Son of Late Lorik Singh, Resident of Quarter No. JOF-9, Dalmia Nagar, P.S. and P.S- Dalmia Nagar, District- Rohtas.
 3. Akhileshwar Kumar Tiwari Son of Sahjanand Tiwari, Resident of Quarter No. D-type-11, Dalmia Nagar, P.S. and P.S- Dalmia Nagar, District- Rohtas.
 4. Ajeet Kumar Singh Son of Late Anant Prasad Singh, Resident of Quarter No. F/F-19, Dalmia Nagar, P.S. and P.S- Dalmia Nagar, District- Rohtas.
 5. Sanjay Singh Son of rambrite Mahto, Resident of Quarter No. SOB-19, Dalmia Nagar, P.S. and P.S- Dalmia Nagar, District- Rohtas.
 6. Vijay Shankar Sharma Son of Late Vidyasagar Sharma, Resident of Quarter No. D-Type-84, Dalmia Nagar, P.S. and P.S- Dalmia Nagar, District- Rohtas.
 7. Chandramani Singh Son of Surendra Narayan Singh, Resident of Quarter No. F/F-28, Dalmia Nagar, P.S. and P.S- Dalmia Nagar, District- Rohtas.
 8. Vijay Kumar Mishra Son of Bindeshwari Mishra, Resident of Quarter No. C/E-22, Dalmia Nagar, P.S. and P.S- Dalmia Nagar, District- Rohtas.
 9. Prashant Kumar Mishra Son of Umapati Mishra, Resident of Quarter No. K-27, Dalmia Nagar, P.S. and P.S- Dalmia Nagar, District- Rohtas.
 10. Yadunandan Singh Son of Indradeo Singh, Resident of Quarter No. J-28, Dalmia Nagar, P.S. and P.S- Dalmia Nagar, District- Rohtas.
 11. Bhagirath Singh Son of Late Loknath Singh, Resident of Quarter No. S-14, Dalmia Nagar, P.S. and P.S- Dalmia Nagar, District- Rohtas.
 12. Ranjit Bhaumik Son of Kulendra Nath Bhaumik, Resident of Quarter No. F/F-24, Dalmia Nagar, P.S. and P.S- Dalmia Nagar, District- Rohtas.
 13. Sheo Pujan Prasad Son of Bishwanath Prasad, Resident of Quarter No. D-Type-54, Dalmia Nagar, P.S. and P.S- Dalmia Nagar, District- Rohtas.
 14. Sanjay Kumar Singh Son of Paras Nath Singh, Resident of Quarter No. OCB-3, Dalmia Nagar, P.S. and P.S- Dalmia Nagar, District- Rohtas.
 15. Hemant Kumar Son of Late Yamuna Prasad, Resident of Quarter No. D-Type-28, Dalmia Nagar, P.S. and P.S- Dalmia Nagar, District- Rohtas.
 16. Anurag Kumar Panna Son of Late Gopal Prasad, Resident of Quarter No. D-Type-46, Dalmia Nagar, P.S. and P.S- Dalmia Nagar, District- Rohtas.
 17. Arvind Kumar Singh Son of Late Baidnath Prasad Singh, Resident of Quarter No. D-Type- 43, Dalmia Nagar, P.S. and P.S- Dalmia Nagar, District- Rohtas.
 18. V.N. Trivedi Son of Chandrabhan Trivedi, Resident of Quarter No. D-Type-10, Dalmia Nagar, P.S. and P.S- Dalmia Nagar, District- Rohtas.
 19. Dr. Vijay Narayan Singh Son of Late Sheo Pujan Singh, Resident of Quarter No. D-Type- 45, Dalmia Nagar, P.S. and P.S- Dalmia Nagar, District-



Rohtas.

20. Vinod Kumar Jha Son of Late Kameshwar Prasad Jha, Resident of Quarter No. D-Type- 38, Dalmia Nagar, P.S. and P.S- Dalmia Nagar, District- Rohtas.
21. Narendra Kumar Singh Son of Late Udaybhan Singh, Resident of Quarter No. S-121, Dalmia Nagar, P.S. and P.S- Dalmia Nagar, District- Rohtas.
22. Praveen Ranjan Singh Son of Gorakh, Resident of Quarter No. S-232, Dalmia Nagar, P.S. and P.S- Dalmia Nagar, District- Rohtas.
23. Gorakh Singh Son of Late Deo Kumar Singh, Resident of Quarter No. S64, Dalmia Nagar, P.S. and P.S- Dalmia Nagar, District- Rohtas.
24. Hazara Singh Son of Late Kripa Singh, Resident of Quarter No. NF, Dalmia Nagar, P.S. and P.S- Dalmia Nagar, District- Rohtas.
25. Rajiv Ranjan Singh Son of Gorakh Singh, Resident of Quarter No. S23, Dalmia Nagar, P.S. and P.S- Dalmia Nagar, District- Rohtas.
26. Praveen Kumar Bhomik Son of Late Ramendra Nath Bhomik, Resident of Quarter No. E-4, Dalmia Nagar, P.S. and P.S- Dalmia Nagar, District- Rohtas.
27. Vijay Kumar Sinha Son of Late Brij Nandan Prasad Srivastava, Resident of Quarter No. E-5, Dalmia Nagar, P.S. and P.S- Dalmia Nagar, District- Rohtas.
28. P.P. Shriwastava Son of Late Fulena Prasad Singh, Resident of Quarter No. S-356, Dalmia Nagar, P.S. and P.S- Dalmia Nagar, District- Rohtas.
29. Ramesh Kumar Sinha Son of Late Raghunath Prasad, Resident of Quarter No. S-36, Dalmia Nagar, P.S. and P.S- Dalmia Nagar, District- Rohtas.
30. Uma Shankar Sinha Son of Late Chandrama Lal, Resident of Quarter No. S-358, Dalmia Nagar, P.S. and P.S- Dalmia Nagar, District- Rohtas.

... ... Appellant/s

Versus

1. M/S Rohtas Industries Ltd. (in Liquidation), through the Official Liquidator.
2. Rajendra Prasad Singh Son of Late Lal Bhushan Singh, Resident of Quarter No. S-125.
3. Kiran Sinha D/o Girish Prasad Sinha, Resident of Quarter No. K-18.
4. Jaynendra Singh Son of Bholanath Singh, Resident of Quarter No. SOB-3.
5. Shail Kumari Wife of Forakhnath Singh, Resident of Quarter No. H-3.
6. Ramsurat Pandey Son of Late Raghupati Pandey, Resident of Quarter No. SOB-8.
7. Vishwajeet Chakrawarti Son of Late Keshi Chakrawari, Resident of Quarter No. D-Type- 61.

... ... Respondent/s

Appearance :

For the Appellant/s : Mr.Brisketu Sharan Pandey
For the Respondent/s : Mr.Gautam Kumar Kejriwal



CORAM: HONOURABLE MR. JUSTICE P. B. BAJANTHRI
and
HONOURABLE MR. JUSTICE JITENDRA KUMAR
ORAL JUDGMENT
(Per: HONOURABLE MR. JUSTICE P. B. BAJANTHRI)

Date : 27-06-2023

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.

(P. B. Bajanthri, J)

(Jitendra Kumar, J)

abhishekk/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	07.07.2023
Transmission Date	NA

