14.07.2023
Court No.19
Items 13-15
CP

C.O. 1831 of 2023

KAHM Industries Private Limited & anr.
Vs.
Punalur Paper Mills Limited

With

C.O. 1832 of 2023

KAHM Industries Private Limited
Vs.
Punalur Paper Mills Limited & ors.

With

C.O. 1833 of 2023

KAHM Industries Private Limited
Vs.
Punalur Paper Mills Limited & ors.

Mr. Jishnu Saha, Sr. Adv.
Mr. Sakya Sen
Mr. Shiv Ratan Kakrania
Mr. Tanuj Kakrania
Mr. Karanjeet Sharma
Mr. Nabbendu Das
….for the petitioners.

Mr. Souradipta Banerjee
Ms. Fatima Hassan
….for the opposite parties.

Mr. Arnab Basu Mullick

….for the opposite party nos. 2 & 3
in C.O. 1833 of 2023.

These revisional applications arise out of a common order and are taken up analogously. The petitioners are aggrieved by the order dated May 8, 2023 passed by the learned Chief Judge, City Civil Court at Calcutta in Title Suit No.- 430 of 2022.

Having heard the learned advocates for the respective parties, this court is of the opinion that unless the order of the Hon'ble Apex Court is complied with by the petitioners, the learned Trial Judge cannot be directed to dispose of the application under Order 7 Rule 11 of the Code of Civil Procedure, filed by the petitioners. Thus in compliance with the order of the Hon'ble Apex Court, the following exercise is to be completed by the petitioners in the court where the suits are pending:-

a) The petitioners will deposit the original title deeds with regard to properties (unencumbered floors, i.e. 8th and 9th floors or any other floor) exclusively owned by the KAHM Industries Private Limited and standing in the name of the said KAHM Industries Private Limited, situated at 13, Nellie Sengupta Sarani carrying a value of more than Rs.9,06,00,000/- in total, along with a report of the Registrar of Assurance containing the market value of the said properties. An undertaking that such properties/floors are neither subject to any acquisition or any litigation nor tenanted or encumbered in anyway and continues to be in exclusive possession of KAHM Industries Private Limited, shall also be filed in the form of an affidavit.

b) Along with the aforementioned, a report shall be filed by the learned advocate-on-record of the petitioner after having conducted an elaborate search with regard to the properties in order to indicate that the properties were free from all encumbrances.

c) Further affidavit, annexing the income tax statements, balance sheet and computation of income be filed, indicating that the amount of compensation received from the land acquisition authorities had been reflected as taxable income in the tax returns.

Upon the satisfaction of the learned court with regard to aforementioned compliances as directed hereinabove, the application under Order VII Rule 11 of the Code of Civil Procedure, which is pending, shall proceed. The other conditions laid down by the Hon'ble Apex Court shall be followed.

It is made clear that the properties which are sought to be secured by way of deposit of the original title deeds, should be encashable so that they may be sold at the appropriate stage, if the occasion arises.

This exercise shall be completed within a period of four weeks from the date of communication of this order. Upon compliance of the aforementioned directions to the satisfaction of the learned Trial Judge, the application under Order 7 Rule 11 of the Code of Civil Procedure shall be disposed of within the next four weeks from such compliance.

The order impugned is modified to the above extent.

The revisional applications are accordingly disposed of.

There shall be no order as to costs.

Parties are to act on the server copy of this order.

(Shampa Sarkar, J.)