

OD-38

IN THE HIGH COURT AT CALCUTTA
Original Jurisdiction
ORIGINAL SIDE

CP/211/1957
IA NO: CA/11/2013(Old No:CA/399/2013),
CA/14/2022, CA/15/2022

BALLYGUNGE REAL PROPERTY &
BUILDING SOC. (IN LIQN.)
VS
PAWAN KUMAR AGARWALA

BEFORE:

The Hon'ble JUSTICE RAVI KRISHAN KAPUR

Date : 14th August, 2023.

Appearance:
Ms. Smita Das De, Adv.
...for the Official Liquidator

The Court : The Report filed by the Official Liquidator be kept with the records.

By an order dated 27th July, 2023, the Official Liquidator was directed to file a Report and take instructions as to why this proceeding should not be transferred to the National Company Law Tribunal, Kolkata.

In this application, the Official Liquidator seeks directions to sell two separate properties belonging to the company (in liquidation) situated at Premises Nos. 76, Ballygunge Garden, Kolkata – 700019 and 16, 18 & 20, Mani Mukherjee Road, Kolkata – 700019 respectively.

It is evident that the properties belonging to the company (in liquidation) have not yet been sold.

In view of the amended provisions of the Companies Act, 2013 and the decisions in *Action Ispat and Power Private Limited-versus-Shyam Metalics and Energy Limited* reported in (2021) 2 SCC 641 and in *A. Navinchandra Steels Private Limited –versus- Srei Equipment Finance Limited and Others* reported in AIR 2021 SC 1180, in my view this Court does not have any jurisdiction to entertain this matter. There is no irreversible situation which has arisen warranting this Court retaining this proceeding.

The proceedings have been pending since 1957 and it is a travesty of justice that a proceeding should remain pending for so long.

It is fairly submitted by Mrs. S. Das De appearing on behalf of the Official Liquidator that in view of the above the matter be transferred to the National Company Law Tribunal, Kolkata.

In view of the aforesaid, CP/211/1957 and all connected applications stand transferred to the National Company Law Tribunal, Kolkata.

The Department shall treat CP/211/1957 as disposed of insofar as the records of this Court are concerned.

It is needless to mention that all connected applications also stand transferred to the National Company Law Tribunal, Kolkata.

(RAVI KRISHAN KAPUR, J.)