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IN THE HIGH COURT AT CALCUTTA
ORIGINAL JURISDICTION
ORIGINAL SIDE

CP/37/1959

WACHEL MALLAH AND SONS (P) LTD.

BEFORE:

The Hon'ble JUSTICE RAVI KRISHAN KAPUR

Date : 23rd August, 2023.

Appearance:
Ms. T. Dasgupta, Adv.
...for Official Liquidator

The Court : This proceeding has been pending since 1959.

A Status Report dated 27 July, 2023 filed by the Official Liquidator is taken on record.

It appears from the said report that the company (in liquidation) was the owner of diverse immovable properties situated at 6, Hastings Street, Kolkata 700001, factory lying at 100, Dilkhusha Street, Park Circus Kolkata 700017 and a storeyard & godown lying at 31/1, Tiljalla Road, Kolkata 700017.

It is also evident from the said Report that though Hastings property has been sold, the remaining properties of the company (in liquidation) are yet to be sold.

In fact, the actual physical position of the property has also not yet been taken over by the Official Liquidator.

It also appears from the Report that there are serious disputes in respect of the remaining immovable properties of the company (in liquidation).

The auditor has also not filed its Report in terms of the order dated 15 March, 2023.

Admittedly, despite lapse of more than 50 years the Official Liquidator has not been able to take possession of the immovable properties of the company (in liquidation).

In view of the amended provisions of the Companies Act, 2013 and in view of 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.

In view of the aforesaid, CP/37/1959 stands transferred to the National Company Law Tribunal, Kolkata.

The Department shall treat CP/37/1959 and all connected applications are 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.)

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