

OD-45

IN THE HIGH COURT AT CALCUTTA
Original Jurisdiction
ORIGINAL SIDE

CP/141/1965
IA NO: CA/1/1997(Old No:CA/380/1997),
CA/2/1997(Old No:CA/548/1997)

SHREE HANUMAN FOUNDERIES LTD. (IN LIQUIDATION)
VS
TARAKESWAR PRASAD SINGH (S/A)

BEFORE:

The Hon'ble JUSTICE RAVI KRISHAN KAPUR

Date : 28th August, 2023.

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

The Court : A valuable property approximately 21 acres of the land belongs to the company (in liquidation).

The order of winding up was passed as far back as on 1965. By an order dated 21st June, 1966, the company was directed to be wound up. The Status Report filed by the Official Liquidator is on record.

It is submitted on behalf of the Official Liquidator that the Official Liquidator has neither taken possession of the movable nor the immovable properties of the company (in liquidation).

The assets of the company (in liquidation) at some point of time were with the secured creditor, United Bank of India.

Thereafter in a suit being Civil Suit No. 84/2010, the entire properties of the company (in liquidation) including the factory premises at Baidyabati were in the custodial leges of the Joint Receivers. There is some dispute as

to whether the Receivers have lawfully sold the property in liquidation to the third party. There are numerous proceedings which have been filed after the winding up order pertaining to the assets of the company (in liquidation). The fund position of the company is Nil.

It is submitted on behalf of the Official Liquidator that in respect of the liquidation proceeding, the Official Liquidator has not even been able to take possession of the movable and immovable property of the company (in liquidation) far less make any attempt to sell the same.

In view of the amended provisions of the Companies Act, 2013 and the decisions in *Action Ispat and Power Private Limited-versus-Shyam Metals 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.

CP/141/1965 stands transferred to the National Company Law Tribunal, Kolkata.

The Department shall treat CP/141/1965 and all connected applications as disposed of insofar as the records of this Court are concerned.

(RAVI KRISHAN KAPUR, J.)