

IA No. ACO 1 of 2023
APOT No. 82 of 2023
with
CA No. 10 of 2022
CP No. 593 of 2000
IN THE HIGH COURT AT CALCUTTA
In appeal from its
ORIGINAL JURISDICTION
CIVIL APPELLATE JURISDICTION

Rajiv Jain
Versus
The Official Liquidator, High Court, Calcutta & Anr.

Before:
The Hon'ble Justice I. P. MUKERJI
And
The Hon'ble Justice BISWAROOP CHOWDHURY
Date: 30th August 2023

Appearance:
Mr. Sakya Sen, Advocate
Mr. Supratim Laha, Advocate
Mr. Akash Ray, Advocate
Mr. Pranjal Pal, Advocate
for the appellant

Mrs. Manju Bhuteria, Advocate
Ms. Arundhati Barman Roy, Advocate
For the O/L
Mr. Prasenjit Pal, Advocate
Mr. Aviroop Chatterjee, Advocate
Mr. Rishov Das, Advocate
for respondent no. 2

Debrup Bhattacharjee, Advocate
for the purchaser

The Court: A tea company is involved. The Official Liquidator claims this estate to be a part of the assets of the company (in liqn.)

Mr. Sakya Sen, learned advocate appearing for the Receiver appointed by Assam Provident Fund Authority to run the tea garden says that it does not form a part of the assets of the said company (in liqn.).

On our examination of the impugned order dated 9th February 2023 it appears that this question was not addressed in detail by the learned single judge. We have been informed that the application made by Rajib Jain stands dismissed for default.

Whatever may be the result of the proceedings, a decision whether the said tea garden belonged to the company (in liqn.) or not at the time of

the winding-up order was passed is very crucial in determining the other issues involved including the entitlement of the creditors and contributories of the said company after sale of the said property.

Therefore we remand the entire matter to the learned single judge for de novo consideration of all issues involved, particularly whether the tea garden in question belonged to the company (in liqn.) or not and if yes, to what extent?

The purchaser of the tea estate shall not create any third interest.

In the special circumstances, we set aside the order dismissing the application, CA No. 10 of 2022 and direct the said application be heard out in the presence of all the parties, as expeditiously as possible.

All observations in the judgment are tentative. All points are kept open before the learned single judge.

The appeal (APOT 82 of 2023) and the application (IA No. ACO 1 of 2023) are disposed of.

(I. P. MUKERJI, J.)

(BISWAROOP CHOWDHURY, J.)