

IA No. ACO 1 of 2023
APOT No. 251 of 2023
with
CP No. 269 of 1968
IN THE HIGH COURT AT CALCUTTA
In appeal from its
ORIGINAL JURISDICTION
CIVIL APPELLATE JURISDICTION

Raj Kumar & Co. Pvt. Ltd. (In Liqn.)
And
Ganges Rolling Industries Pvt. Ltd.
Versus
The Official Liquidator, High Court, Calcutta

Before:
The Hon'ble Justice I. P. MUKERJI
And
The Hon'ble Justice PRASENJIT BISWAS
Date: 10th August 2023

Appearance:
Mr. Abhrajit Mitra, Sr. Advocate
Mr. Debnath Ghosh, Advocate
Mr. Sushovit Dutt Majumder, Advocate
Mr. Sarosij Dasgupta, Advocate
Mr. Souvik Ganguly, Advocate
Mr. Biswaroop Mukherjee, Advocate
for the appellant

Mr. Pramod Kr. Drolia, Advocate
for Official Liquidator

The Court: We formally admit the appeal.

Since all the parties who matter are before the court, we are in a position to dispose of this appeal dispensing with all formalities.

As back as on 21st May 1970, the company Raj Kumar & Company Private Limited was directed to be wound up by an order of this court. At the time of winding up of the company, it was the owner of an undivided half share in each of the premises 232, 232/2, 235, 237, 239, 242, 243 and 244, Picnic Garden Road, Kolkata. The remaining half share was owned by Hargobind Prasad Goenka as Karta of a Hindu Undivided Family.

It appears that the entire property at Picnic Garden was sold to Ganges Rolling Industries Private Limited for Rs. 57,50,000/-. The learned judge notes in the impugned judgement and order that it was

the obligation of Ganges to pay the entire sale proceeds and that an amount of Rs. 17,25,000/- remained due and payable by them. The learned judge went on to opine that failure on the part of the purchaser to pay the entire sum rendered the sale a nullity. By his judgment and order dated 28th July 2023 the learned judge declared the sale to be invalid. This necessarily has the consequence of the applicant/purchaser having to return the property to the Official Liquidator after having paid a considerable amount.

We do not know how much of the money paid by the purchaser could be got back, inasmuch as, the winding up order was passed more than 30 years ago and the records are not before us to show how this purchase money was dealt with. In fact, the cause of utter surprise for the petitioner is that by the present application the applicant had only wanted leave of court to deposit the balance sum of Rs.17,25,000/-.

We are also informed by learned counsel that as of now the winding up of the company is stayed.

We have fully and properly made ourselves acquainted with the entire facts and circumstances of this case. We are of the view that the applicant should be given an opportunity to perfect the sale by paying Rs. 17,25,000/- to the Official Liquidator as balance price and an additional sum of Rs. 2,75,000/- representing interest.

If the above sums are paid by 15th September 2023 the Official Liquidator shall accept the same and deposit it in the account where the sale proceeds of the assets of the company have been deposited. The property will stand permanently detached from the properties constituting the assets of the company (in liqn.). The sale in favour of the purchaser would stand absolute.

Order also in terms of prayers (c) and (d) of the Judge's Summons.

The impugned judgment and order dated 28th July 2023 is set aside.

We have not been addressed ourselves any other case with regard to winding up of Raj Kumar & Co. Private Limited.

The appeal and the application are allowed to the above extent.

As affidavits were not invited, allegations contained in the stay petition are deemed to have been not admitted.

(I. P. MUKERJI, J.)

(PRASENJIT BISWAS, J.)

R. Bose