SANTOSH SUBHASH KULKARNI

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IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

OFFICIAL LIQUIDATOR'S REPORT NO. 1 OF 2023
IN
COMPANY PETITION NO. 926 OF 2014

In the matter of the Companies Act, (I of 1956)
And
In the matter of Core Education and Technologies Ltd. (In Liqn.)

Credit Suisse Finance (India) Pvt. Ltd. ...Petitioner

Mr. Shatrughan Chauhan, for the Official Liquidator.

CORAM: N. J. JAMADAR, J.

DATED : 4th JANUARY, 2023

PC:-

1. Heard the Deputy Official Liquidator. Perused the report.

2. By an order dated 24th August, 2022 this Court had directed the Official Liquidator to sale the movable assets of the Company (in liquidation) through e-auction. The Court had fixed the reserve price at Rs.3,50,000/-.

3. The report indicates that e-auction was conducted on 2nd December, 2022. Out of 10 prospective bidders registered with the enivida e-auction portal only one buyer namely K. D. Enterprises submitted the bid of Rs.3,75,000/-. Summary of the bid is annexed to the report at Exhibit-A. The offer of Rs.3,75,000/- appears to be an optimum and reasonable offer. No fruitful purpose would be served by again putting the property for sale in the hope of a better offer. It is well recognized that successive Court auctions with a view to obtain a better price may not yield the desired result.

4. A useful reference, in this context, can be made to the observations of the Supreme Court in the case of ***Kayjay Industries (P) Ltd. vs. Asnew Drums (P) Ltd. and ors***[1]**,** wherein the Supreme Court observed that if Court sales are too frequently adjourned with a view to obtain a higher price it may turn out to be a self-defeating exercise.

5. Paragraph 7 of the said judgment reads as under:

> "**7**. Certain salient facts may be highlighted in this context. A court sale is a forced sale 'and, notwithstanding the competitive element of a public auction, the best price is not often forthcoming. The judge must make a certain margin for this factor. A valuer's report, good as a basis, is not as good as an actual offer and variations within limits between such an estimate, however careful, and real bids by seasoned businessmen before the auctioneer are quite on the cards. More so, when the subject-matter is a specialised industrial plant, which has been out of commission for a few years, as in this case, and buyers for cash are bound to be limited. The brooding fear of something out of the imported machinery going out of gear, the vague apprehensions of possible claims by the Dena Bank which had a huge claim and was not a party, and the litigious sequel at the judgment-debtor's instance, have 'scare' value in inhibiting intending buyers from coming forward with the best offers. Businessmen make uncanny calculations before striking a

1(1974) 2 SCC 213.

> bargain and that circumstance must enter the judicial verdict before deciding whether a better price could be had by a postponement of the sale. Indeed, in the present case, the executing court had admittedly declined to affirm the highest bids made on May 16, 1969 June 5, 1969 and August 28, 1969, its anxiety to secure a better price being the main reason. <u>If court sales are too frequently adjourned with a view to obtaining a still higher price it may prove a self-defeating exercise for industrialists will lose faith in the actual sale taking place and may not care to travel up to the place of auction being uncertain that the sale would at all go through.</u> The judgment debtor's plea for postponement in the expectation of a higher price in the future may strain the credibility of the court sale itself and may yield diminishing returns as was proved in this very case."
>
> (emphasis supplied)

6. Hence I am inclined to accept the bid of Rs.3,75,000/- and confirm the sale.

7. The report is thus made absolute in terms of prayer Clauses (a) and (b).

8. The EMD of the rest of the bidders, who had registered in the e-auction, be returned.

[N. J. JAMADAR, J.]