

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
OFFICIAL LIQUIDATOR'S REPORT NO.119 OF 2023
IN
COMPANY PETITION NO.1145 OF 2015

In the matter of Companies Act,
1 of 1956

and

In the matter of Kudus Steel Rolling
Mills Pvt. Ltd. (in liquidation)

The Abhyudaya Co. Op. Bank Ltd. ... Petitioner

WITH
INTERIM APPLICATION (L) NO.23580 OF 2023
IN
COMPANY PETITION NO.1145 OF 2015

Khan Naushad Abdul Gani ... Applicant

In the matter between

The Abhyudaya Co. Op. Bank Ltd. ... Petitioner

Vs.

M/s. Kudus Steel Rolling Mills Pvt. Ltd. ... Respondent

WITH
INTERIM APPLICATION (L) NO.24470 OF 2023
IN
COMPANY PETITION NO.1145 OF 2015

Wada Steelmould India Pvt. Ltd. ... Applicant

In the matter between

The Abhyudaya Co. Op. Bank Ltd. ... Petitioner

Vs.

M/s. Kudus Steel Rolling Mills Pvt. Ltd. ... Respondent

WITH
INTERIM APPLICATION (L) NO.23268 OF 2023
IN
COMPANY PETITION NO.1145 OF 2015

Bharat Enterprises	...	Applicant
<u>In the matter between</u>		
The Abhyudaya Co. Op. Bank Ltd.	...	Petitioner
Vs.		
M/s. Kudus Steel Rolling Mills Pvt. Ltd.	...	Respondent

Mr. Merlyn Vasudeo nee Monteiro for Petitioner / Secured Creditor Bank.
 Mr. Ranjeev Carvalho for Official Liquidator.
 Mr. Chandan Kumar, Official Liquidator.
 Mrs. M. P. Thakur i/b. Bansal International.
 Ms. Sabeena Mahadik a/w. Ms. Mumtaz Khan for Applicant in IAL/23268/2023.
 Ms. Shilpa G. Talhar for Applicant in IAL/24470/2023.
 Mr. Srinath Padhy, Authorized person for Applicant in IAL/24470/2023.
 Ms. Namrata N. Shenoy for DM Steels Private Limited.

CORAM : MANISH PITALE, J.
DATE : SEPTEMBER 29, 2023

P.C. :

1. On 01.09.2023, this Court had passed a detailed order recording the bids received for the immovable / movable properties. It was found that the highest bid for the immovable property was Rs.2.07 crores, while the highest bid for the movable property was Rs.1.20 crores.

2. It was recorded that parties, that had not even participated in e-auction, came forward before the Court on the said date offering higher bids and in that light, this Court directed the official liquidator to issue notice to all the parties, who had participated in the auction so that a fair chance could be given to all the interested bidders, to remain present in the Court for auction to be conducted in the open Court.

3. The matter was fixed for further consideration on 15.09.2023. But, due to paucity of time, on 15.09.2023, it could not be taken up for consideration and the matter was adjourned to today.

4. In respect of the immovable property, apart from the highest and

lone bidder identified in the official liquidator's report i.e. Bansal International, two more parties i.e. Wada Steelmould India Pvt. Ltd. - applicant in Interim Application (L) No.24470 of 2023 and Bharat Enterprises - applicant in Interim Application (L) No.23268 of 2023 were present in Court to offer their respective bids.

5. In this backdrop, the aforesaid three parties were called upon to offer their bids in respect of the immovable property. Bansal International increased its offer to Rs.3.10 crores, while Wada Steelmould India Pvt. Ltd. increased its offer to Rs.2.80 crores and Bharat Enterprises increased the same to Rs.3 crores. On further opportunity, while Bansal International increased the bid to Rs.3.30 crores, Wada Steelmould India Pvt. Ltd. increased it to Rs.3.35 crores and Bharat Enterprises increased its bid to Rs.3.20 crores. At this point, only Bansal International and Wada Steelmould India Pvt. Ltd. remained in the fray as Bharat Enterprises could not increase its bid any further. At this stage, Bansal International increased its bid to Rs.3.40 crores, in response to which, Wada Steelmould India Pvt. Ltd. increased its bid to Rs.3.45 crores. Bansal International further increased its bid to Rs.3.50 crores. At this stage, this Court indicated that further increase had to be at least by an amount of Rs.10 lakhs or more.

6. Ms. Talhar, learned counsel appearing for Wada Steelmould India Pvt. Ltd., on instructions, stated that the said party could not increase its bid any further. Therefore, the highest bid offered in the auction conducted in the open Court was that of Bansal International i.e. Rs.3.50 crores. Being the highest bidder and also taking into consideration the valuation report, this Court is inclined to accept the same.

7. The official liquidator's report specifically prays for directions for further action in the matter, as per the terms and conditions of sale of the immovable property on "*as is where is basis or whatever there is basis*".

The procedure specifically prescribes subsequent steps to be taken, in paragraph 8. In fact, the directions sought in the official liquidator's report are also in terms of the said procedure.

8. In that light, sale is confirmed in favour of Bansal International being the highest bidder and its bid of Rs.3.50 crores for the immovable property is accepted. Further directions are granted in terms of prayer clauses (b) and (d), which read as follows:-

b) In view of Para 8 of this report, whether this Hon'ble Court may be pleased to pass such orders as may deem fit on the highest bid of Rs.3,50,00,000/- (Three Crores Fifty Lakhs only) received for immovable property from Bansal International of the company (In Liqn.) situated at Gut No.247, 248, 250, 253 & 254 village Kharivali, Taluka Wada, District Thane;

d) If the sale is confirmed in favour of highest bidder of immovable property of the company (In Liqn.), whether this Hon'ble Court may be pleased to permit the Official Liquidator to handover the possession of the immovable property of the company (In Liqn.) situated at Gut No. 247, 248, 250, 253 & 254 village Kharivali, Taluka Wada, District Thane. (As per inventory of Valuer) to highest bidder, after receiving balance of 25% of bid amount within 3 days from the date of acceptance of the bid by this Hon'ble Court and the remaining sale consideration within 30 days from the order of Hon'ble Court as prescribed in terms and conditions as approved by this Hon'ble Court vide order dated 30.06.2023 passed in OLR No.160 of 2022;

9. Further steps in the matter will be taken as per the terms and conditions at exhibit-C.

10. As regards movable property, the official liquidator's report shows that there were 11 bidders, of whom one R B N Steel was the highest bidder, who offered Rs.1.20 crores. In that light, the official liquidator's report sought a direction as per prayer clause (a) for accepting the said highest bid of R B N Steel in respect of the movable property.

11. But, as noted hereinabove, in terms of the order passed on 01.09.2023, since higher bids were being made before this Court by entities, who had not participated in e-auction, it was thought fit that opportunity could be granted to such parties to offer higher bids, subject to notice being issued to all the 11 bidders, who had participated in the e-auction. Accordingly, notices were issued, and the said 11 bidders, as also the applicant in Interim Application (L) No.23268 of 2023 i.e. Bharat Enterprises were all present before this Court on 15.09.2023. But, due to paucity of time, the proceedings could not be taken up and they were adjourned to today.

12. Today, when the proceedings were taken up on the aspect of auction of the movable property, another entity i.e. DM Steels Private Limited appeared through counsel and proposed to participate in the auction. This Court thought it fit to permit the said entity also to participate in the auction in open Court.

13. As a consequence, apart from the 11 parties, who were original bidders in the auction, Bharat Enterprises - applicant in Interim Application (L) No.23268 of 2023 and the said entity - DM Steels Private Limited were permitted to participate in the auction in open Court. Bids were invited from all these 13 participants in the open Court.

14. Pursuant to opportunity being granted to all the parties, it was found that eventually, only R B N Steel and the applicant in Interim Application (L) No.23268 of 2023 i.e. Bharat Enterprises remained in the fray. This Court had made it clear that the increased bids to be offered by the parties had to be for a minimum amount of Rs.2 lakhs. The highest bidder at the end of the exercise was found to be R B N Steel, who offered Rs.2.20 crores for the movable property. Being the highest bidder, the offer made by R B N Steel is accepted.

15. Accordingly, sale of the movable properties is confirmed in favour of R B N Steel. In view of the above, the highest bid, instead of being recorded as 'Rs.1.20 crores' in direction at prayer clause (a), it shall be recorded as 'Rs.2.20 crores'.

16. The directions sought at prayer clause (a) with the revised amount and prayer clause (c) are granted as regards movable property, which read as follows:-

“a) In view of Para 8 of this report, whether this Hon'ble Court may be pleased to pass such orders as may deem fit on the highest bid of Rs.2,20,00,000/- (Two Crores Twenty Lakhs only) received for movable property from R. B. N. Steel of the company (In Liqn.) situated at Gut No.247, 248, 250, 253 & 254 village Kharivali, Taluka Wada, District Thane;

c) If the sale is confirmed in favour of highest bidder of movable property of the company (In Liqn.), whether this Hon'ble Court may be pleased to permit the Official Liquidator to handover the possession of the immovable property of the company (In Liqn.) situated at Gut No. 247, 248, 250, 253 & 254 village Kharivali, Taluka Wada, District Thane. (As per inventory of Valuer) to highest bidder, after receiving balance of 25% of bid amount within 3 days from the date of acceptance of the bid by this Hon'ble Court and the remaining sale consideration within 30 days from the order of Hon'ble Court as prescribed in terms and conditions as approved by this Hon'ble Court vide order dated 30.06.2023 passed in OLR No.160 of 2022;”

17. In view of the above, the official liquidator's report stands disposed of.

18. Further steps in the matter shall be taken as per terms and conditions of sale specified in exhibit-C.

19. Return of EMDs, as per clause 10 of the terms and conditions, shall be ensured within a period of two weeks from today.

20. All interim applications also stand disposed of.

21. It is further made clear that period of three days specified as per the terms and conditions in case of, both, movable and immovable properties shall start from 03.10.2023.

22. Valuation report shall be put back in a sealed cover.

(MANISH PITALE, J.)

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