



WEB COPY



A.No.2096 of 2022

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in

OP.No.287 of 1993

K.KUMARESH BABU., J.

By order dated 01-03-2023 this court had recorded a statement made by the learned counsel for the respondent/petitioner that the One Time Settlement (hereinafter referred to as 'OTS') proposal could be considered during the Board meeting to be held on 31-03-2023. Today when the matter was taken up for hearing, a memo has been filed on behalf of the respondents 6 to 9, indicating that by communication dated 11-04-2023, the respondents/petitioner had approved the OTS submitted by them. However the same has been addressed to the first respondent which had been struck off from the Register of companies. The memo further indicates that the respondents 6 to 9 along with the third respondent should be permitted to inspect the original security documents prior to making of the remittances under the OTS. Further the memo also seeks to permit the respondents 3, 6 to 9 to comply with the terms of the OTS sanction letter dated 11-04-2023, after the petitioner had offered the inspection of the original security documents.

2. The learned standing counsel for the respondents/petitioner had raised a serious objection to the memo contending that the memo has been filed only as a



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dilatory tactics to delay the process of settlement. She would further submit that the respondents had not brought to the notice of this Court that the first respondent had been struck off from the Register of companies during the earlier occasions. Therefore she would submit that the conduct of the respondents creates serious doubt as to their intention to settle the dispute. Therefore she would request this Court to reject the memo.

3. The learned counsel appearing for the applicants would submit that there is a doubt as to the position of the original title deeds of the respondents, hence the respondents would want to inspect the documents before making any payments, as per the sanction letter dated 11-04-2023. He would further submit that since the first respondent had been struck off from the register of companies, the settlement proposal had been given by the respondents 3, 6 to 9 and therefore they should be permitted to comply with the sanction letter.

4. I have considered the submissions made by the learned counsels on either side.



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5. It is pertinent to note that the respondents/petitioner in their original petition has admitted that the title deeds have been deposited by executing a mortgage as collateral security. When that be the admitted position, I am afraid that the request of the respondents 3, 6 to 9 is without any merits. The further request to permit the respondents 3, 6 to 9, to comply with the terms of the sanction letter seems to be engineered request in the light of the fact that the first respondent had been struck off from the Register of companies. The contention raised by the learned counsel appearing on behalf of the first respondent/petitioner that they were not aware of the striking off is misconception of facts.

Even in the proposal for the settlement, the respondents 3, 6 to 9 have notified the respondents/petitioner about the said fact.

6. Therefore I am of the view that the respondents/petitioner may permit the respondents 3, 6 to 9, to comply with the terms of the sanction letter dated 11-04-2023.

Post the matter on 07.06.2023.



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