

ORDER SHEET

IN THE HIGH COURT AT CALCUTTA  
CIVIL APPELLATE JURISDICTION  
ORIGINAL SIDE

APOT No./302/2023  
WITH  
CP/313/2012  
CA/25/2022  
IA No. ACO/1/2023, ACO/2/2023

REBA MANDAL AND ORS  
VERSUS  
OFFICIAL LIQUIDATOR HIGH COURT CALCUTTA

BEFORE:

The Hon'ble JUSTICE I.P. MUKERJI

And

The Hon'ble JUSTICE BISWAROOP CHOWDHURY

Date : 2<sup>nd</sup> January, 2024

Appearance:

Mr. Surajit Samanta, Adv.

Ms. Smrutirekha Das, Adv.

Ms. Sohini Samanta, Adv.

Mr. Subhadip Biswas, adv.

..for O.L.

The Court: Order in terms of prayer (a) of the stay petition.

We are in a position to dispose of this appeal today, dispensing with all formalities.

The appellants are the purchasers of an immovable property belonging to the company in liquidation, Rubi Star Real Estate and Housing Development Limited.

Admittedly, the entire consideration has been paid by the appellants.

In the deed of conveyance dated 3<sup>rd</sup> September, 2021, executed between the parties, it was specifically recited that the Official Liquidator was in possession of the said property.

The grievance of the appellants is that physical possession of the property has still not been delivered by the Official Liquidator to them.

Learned counsel for the Official Liquidator submits that possession has already been handed over to the appellants, which is denied by Mr. Samanta, learned advocate appearing for the appellants.

In an earlier proceeding, by the order dated 15<sup>th</sup> July, 2021 a learned Single Judge had confirmed the sale in favour of the appellants.

The appellants made another application before the learned Single Judge (IA No. CA/25/2022 in CP/313/2012) complaining that although sale had been effected in their favour, but actual physical possession of the property had not been delivered to them.

By the impugned judgment and order dated 19<sup>th</sup> December, 2022 the learned judge recorded the submission of learned counsel for the Official Liquidator that his client would comply with the order dated 15<sup>th</sup> July, 2021. Having recorded the submission his lordship disposed of the application.

The appellants say that their grievance is that physical possession of the said property has not been delivered to the appellants till date. That has not been addressed in the judgment.

The appellants are correct. The said order dated 15<sup>th</sup> July, 2021 and the order dated 19<sup>th</sup> December, 2022 speak about the confirmation of sale in favour of the appellants, but are silent with regard to possession.

The deed of conveyance of 3<sup>rd</sup> September, 2021 specifically recites that possession is with the Official Liquidator. When that is the position and the Official Liquidator has executed a deed of conveyance conveying the property by sale to the appellants, he was also required to deliver its possession.

Whether he has delivered possession or not is disputed.

Irrespective of the fact whether delivery of possession has been made or not, the Official Liquidator should ensure that the appellants are in possession of the said property.

Hence, we dispose of this appeal (APOT/302/2023) and the connected applications (IA No. ACO/1/2023, ACO/2/2023) by directing the Official Liquidator, with the help of the Superintendent of Police of the District, if necessary to ensure that the appellants are in possession of the said property and if not to put them in possession within three weeks of communication of this order to the Official Liquidator.

(I.P. MUKERJI, J.)

(BISWAROOP CHOWDHURY, J.)