

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION**

**OFFICIAL LIQUIDATOR REPORT NO. 46 OF 2024
IN
COMPANY PETITION NO. 108 OF 2008**

In the matter of The
Companies Act, I of 1956;

AND

In the matter of Patheja
Forging and Auto Parts
Manufacturers Limited (in
liquidation)

Board for Industrial Finance
Reconstruction

... Petitioner

**WITH
INTERIM APPLICATION (L) NO. 9417 OF 2024
IN
OFFICIAL LIQUIDATOR REPORT NO. 184 OF 2023**

Mr. Ranjeev Carvalho for the Official Liquidator.
Mr. Rajender Kumar, Official Liquidator (I/c.).
Mrs. M. P. Thakur a/w Akshay S. Pansare for Ashtech Toolings and
Stampings Pvt. Ltd.
Mr. Avinash Joshi for the Applicant in IAL/9417/2024.

**CORAM: MANISH PITALE, J.
DATE : 12th APRIL 2024**

P.C. :

. The present Official Liquidator's Report (OLR) No. 46 of
2024 is filed for confirmation of sale of a plot belonging to the

company in liquidation located in MIDC, Pimpri, Pune. By an order dated 19th January 2024, this Court had permitted sale of the property identified as Lot-II and fixed the reserved price at Rs.9 crores. In pursuance thereof, e-auction of the said property was conducted on 19th March 2024. There were 22 bidders and 114 number of bids. Eventually, the highest bidder was Ashtech Toolings and Stampings Pvt. Ltd. The OLR seeks confirmation of sale in favour of the aforesaid highest bidder and to take further necessary action as per the terms and conditions of the sale.

2. Interim Application bearing (Lodging) No. 9417 of 2024 was mentioned at the e-filing stage on 18th March 2024. The applicant claims that there was a deed of conveyance dated 27th April 1995 executed by the company in liquidation in its favour. In fact, on 18th March 2024, the applicant had sought urgent stay of the process of the e-auction. After hearing the learned counsel for the applicant on the said date, this Court observed as follows :

“4. The representative of the official liquidator is present in Court and he submits that Mr. Khan is to appear for the official liquidator, but he is on his legs in another Court.

5. Considering the extreme urgency projected by the learned counsel for the applicant, this Court perused the application and the documents filed therewith as a physical copy thereof was tendered before this Court.

6. The first prayer in the application is for setting aside of the order dated 19.01.2024, passed by this Court in Official Liquidator's Report No.184 of 2023. By the said order, this

Court granted directions in terms of prayer clauses (a) to (d) of the said Official Liquidator's Report, which, inter alia, permitted the official liquidator to conduct e-auction for sale of plot located in Pimpri, Pune, District Maharashtra.

7. The applicant claims that there is a deed of conveyance in respect of the said plot in his favour executed as far back as on 27.04.1995.

8. The representative of the official liquidator has invited attention of this Court to a document at page No.51 of the disposed of official liquidator's report, which records the fact that the physical possession of the said plot was taken as far back as on 23.06.2023 and that a board was installed on the wall of the building, with photographs of the same being annexed to the said document.

9. This Court is of the opinion that if the applicant claims rights on the basis of the aforesaid conveyance deed, it is difficult to understand as to what prevented the applicant from taking appropriate steps from 23.06.2023 onwards and even after this Court passed the said order on 19.01.2024.

10. The e-auction is fixed for tomorrow. At this stage, this Court is not inclined to pass any order in the present application. Liberty is reserved for the applicant to press for reliefs in this application, when the official liquidator submits report, after having conducted the e-auction as permitted in the order dated 19.01.2024.

11. The application can be taken up for consideration at that stage for appropriate orders."

3. Accordingly, today, the learned counsel for the applicant is pressing for reliefs in terms of the prayer made in the application. The applicant prays for recalling of the order dated 19th January 2024, passed by this Court, permitting e-auction of the said property after fixing the reserved price. The applicant also seeks a

consequential direction of setting aside the notice of sale and cancelling the e-auction process.

4. In support of the application, the learned counsel for the applicant refers to and relies upon the deed of conveyance dated 27th April 1995, copy of which is annexed at Exhibit 'A' to the application. It is submitted that the company in liquidation was required to pay specific sum to the applicant and since it has failed to pay the amount, it was treated as a consideration for purchase of the said property by the applicant.

5. The principal objection raised on behalf of the official liquidator is that the said document is admittedly unregistered and unstamped. It is also pointed out that official liquidator was appointed in Company Petition No. 108 of 2008. The physical possession of the property was taken by official liquidator on 23rd June 2023. The board of official liquidator was installed. It is submitted that the statement made in the aforementioned alleged deed of conveyance regarding possession having been handed over to the applicant on the date of the deed of conveyance appears to be false. There is no reason why the applicant can claim that he was unaware about the possession having been taken by the liquidator and the company having gone into liquidation.

6. The learned counsel for the applicant in response submits that the document of deed of conveyance can be impounded by

this Court and stamped in accordance with law. He further submits that although it is an unregistered document, an appropriate suit or proceeding can be initiated by the applicant, but, if the sale is confirmed as per the prayer made in the OLR, it would be prejudicial to the applicant.

7. This Court is of the opinion that the alleged deed of conveyance dated 27th April 1995 being admittedly an unregistered and unstamped document, is a relevant factor. It is also relevant that if the applicant claims to have been put in possession of the property on the date when the deed of conveyance was executed i.e. 27th April 1995, there is no explanation forthcoming as to why the applicant chose not to raise any objection when the possession of the said property was physically taken by the official liquidator, as far back as on 23rd June 2023. The only statement made on behalf of the applicant is that certain permissions were required from the Maharashtra Industrial Development Corporation with regard to the steps to be taken by the applicant in consequence of the deed of conveyance. This Court is not satisfied with the said explanation sought to be given on behalf of the applicant.

8. It is too late in the day to allow the application to scuttle the process of confirmation of sale, in pursuance of the e-auction process.

9. In any case, if the applicant is having any claim against the company in liquidation, he can take steps in accordance with law.
10. In view of the above, the Interim Application bearing (Lodging) No. 9417 of 2024, is dismissed.
11. Needless to say that the applicant will be at liberty to institute such proceeding, as may be available in law in respect of his grievance.
12. This Court has perused the e-auction summary. The contents thereof are sufficient to indicate that the sale deserves to be confirmed in favour of the highest bidder.
13. Accordingly, the OLR is allowed in terms of prayer clauses (a) and (b), which read as follows :

“(a) In view of paragraph (7) supra, whether this Hon’ble Court may be pleased to confirm the sale in favour of highest bid of Rs.23,58,00,000/- (Rupees Twenty Three Crores Fifty Eight Lakhs Only) of Astech Toolings and Stampings Private Limited in respect of the immovable property i.e. Plot No.FII/7, MIDC, Pimpri, Pune 411 018;Pimpri

(b) In view of paragraph (8) supra, if the sale is confirmed in favour of Ashtech Toolings and Stampings Private Limited, whether this Hon’ble Court may be pleased to permit the Official Liquidator to handover the possession of the immovable property i.e. Plot No.FII/7, MIDC, Pimpri, Pune 411 018 to Ashtech Toolings and Stampings Private Limited within 30 days from the date of payment as prescribed in terms and condition, as approved by this Hon’ble Court vide

order dated 19.01.20024 in OLR No. 184 of 2023.”

14. The highest bidder is permitted to deposit the initial amount of 25% as per the terms and conditions of the sale, within three days from today i.e. on or before 17th April 2024.

15. The OLR and the Application stand disposed of accordingly.

MANISH PITALE, J.