

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

OFFICIAL LIQUIDATOR'S REPORT NO. 73 OF 2024

IN
COMPANY PETITION NO. 95 OF 1999

IN THE MATTER OF THE COMPANIES ACT,
I OF 1956

AND

IN THE MATTER OF PATHEJA BROTHERS
FORGINGS AND STAMPING LTD.
(IN LIQUIDATION)

DEVI CONSTRUCTION COMPANY PVT. LTD.)...PETITIONER

Mr.Ranjeev Carvalho, Advocate for the Official Liquidator.

Mr.Chandan Kumar, Official Liquidator, present in Court.

Ms.Nikita Yadav, Assistant Official Liquidator, present in Court.

CORAM : ABHAY AHUJA, J.

DATE : 20th JUNE 2024

PC. :

1. When the matter is called out, Mr.Carvalho, learned Counsel for the Official Liquidator, submits that in the facts of this case, the H1 successful bidder failed to make payment of balance of 25% of the bid amount, and therefore, has made herself liable for forfeiture of the Earnest Money Deposit (EMD) amount of Rs.1.5 lakhs. That, since the sale was confirmed in view of the failure to pay balance of 25% of the bid amount, the sale be cancelled.

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2. Learned Counsel would submit that the subsequent prayer (b) would not survive as the H2 and H3 bidders have communicated that they are also not interested in pursuing the sale. With respect to prayer clauses (c) to (f), learned Counsel would submit that the Official Liquidator will submit a fresh report seeking fresh directions in respect of the re-auction to be conducted.

3. Having heard the learned Counsel and having considered the Official Liquidator's Report, this Court is of the view that the report be allowed in terms of prayer clause (a) which reads thus :

“(a) In view of para(10) of this report, whether this Hon’ble Court may be pleased to cancel the sale confirmed in favour of Jasmine Fazal Memon and permit the Official Liquidator to forfeit the amount of EMD of Rs.1.5 Lakhs of H1 bidder as per clause 11 of Terms and conditions dated 14.02.2024.”

4. As far as the H2 and H3 bidders are concerned, since they have expressed their desire not to accept the offer, the EMDs be returned to them.

5. The Official Liquidator's Report stands disposed as above.

(ABHAY AHUJA, J.)