



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR
CIVIL APPLICATION NO35/2024 IN
COMPANY APPLICATION 8/2023

Jitendra Ramlal Desai and anr. .Vs. Official Liquidator, Adhunik Gruh Nirman
Vittiya Corporation Ltd. and Ors.

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's orders

Court's or Judge's orders

Mr. J. M. Gandhi, Advocate for applicants.
Dr. Anjan De, Advocate for respondent No.1.

CORAM : ANIL L. PANSARE, J.
DATE : OCTOBER 25, 2024

On 11.10.2024, following order was passed:

"On 27/9/2024 following order was passed:

"On 13/9/2024 following order was passed:

"On 6/9/2024 following order was passed.

"In compliance to order dated 9-8-2024, Mr. J. M. Gandhi, learned Counsel for the Applicants submits that demand draft (DD) of Rs.7 Crores is ready and will be deposited by 10-9-2024. As such, DD ought to have been deposited by today.

The orders passed on earlier occasions indicate that the applicants have failed to comply order in its true spirit. This is yet another lapse. However, since it is said that DD is ready, one opportunity could be granted, but then it is surprising that DD which was ready on 2-09-2024, could not it reach the Court till today.

Be that as it may, the DD be deposited by 9-9-2024, failing which, the applicants shall pay costs of Rs.1,00,000/- to the Official Liquidator.

List on 13-9-2024.

The application seeking permission to deposit Rs.7 Crores along with other prayers is tendered across the bar. Same is taken on record. The other prayers shall be considered in due course."

Learned Counsel Mr. Gandhi seeks two weeks time. Time granted subject to deposit of additional costs of Rs.2,00,000/- to be paid to the Official Liquidator before next date with further clarification that the order passed on previous date including order dated 9-8-2024 whereby the applicants have been put to notice that failure to comply order will restore previous order including forfeiture of amount deposited till now and further that proposal for revival will be rejected.

With the aforesaid observations, stand over to 27-9-2024."

2] The learned Counsel for the applicants seeks 15 more days time.

3] Time is granted subject to depositing additional costs of Rs.2,00,000/- to be paid to the Official Liquidator before next date with further clarification that the order passed on previous date, including order dated 9/8/2024, whereby the applicants were put to notice that failure to comply order will restore previous order, including forfeiture of amount deposited till now and further that the proposal for revival will be rejected with condition that no further time will be granted.

4] Stand over to 11/10/2024."

2. The request of two weeks continues at the hands of the Applicants. It appears to me that there is no end to such request. At this stage, learned Counsel for the Applicants submits that this is a last request and the commitment will be honoured within two weeks from today.

3. Considering the fact that the Applicants intend to revive the Company, one more opportunity, but strictly as a last chance, is given to the Applicants subject to depositing additional costs of Rs.2,00,000/-.

4. If the amount for revival, as assured, is not paid by 25/10/2024, the proposal for revival shall stand rejected without further reference to this Court.

5. *As regards forfeiture of the amount deposited till then, the order to that effect will be passed on 25/10/2024, upon hearing the Applicants as to why the amount so deposited should not be forfeited in terms of previous orders as also as a penalty for making false commitment before the Court.*

6. *Stand over to 25th October, 2024.”*

As could be seen, this Court has, in a way, expressed displeasure in the manner in which the assurances have been given by the applicants, only to find that none of the assurances were fulfilled. On previous date, when one more request was made to extend the time to deposit the amount, as assured, this Court has observed, *“It appears to me that there is no end to such request.”* Upon recording such a statement, counsel for the applicants submitted that request so made is a last request and commitment will be honoured within two weeks from the date of the order. Accordingly and since the applicants intended to revive the company, one more opportunity was given with clear understanding that it will be strictly a last chance, that too upon applicants’ depositing additional costs of Rs.2,00,000/-.

This commitment has been also not fulfilled. Counsel for the applicants seeks time but now in a different way. The applicants have put forth proposal that let Official Liquidator inform the applicants’ entire outstanding amount due and accordingly the applicants will deposit the same in one stroke.

This proposal, if considered in the light of previous conduct of the applicants, is nothing but another attempt to prolong the matter.

In the circumstances, I am not inclined to grant further time to deposit any amount to again face further request for extension of time. The applicants have made false promises till now and have obtained various orders. The applicants have lost their credibility.

In view thereof and in terms of previous orders, the request/proposal put forth by the applicants to revive the company is rejected and the amount deposited till now stands forfeited. The Registry shall proceed to recover the amount of Rs.2,00,000/-, which the applicants have not deposited in terms of order dated 11.10.2024, as a land revenue.

The application is disposed of.

(Anil L. Pansare, J.)