



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR.

COMPANY APPLICATION NO. 233 OF 2024
IN COMPANY APPLICATION NO. 153 OF 2003 (D)
IN COMPANY PETITION NO. 7 OF 1995
(In the matter of Orange City Builders Pvt. Ltd. (In liquidation))
AND COMPANY APPLICATION NO. 274 OF 2024
IN COMPANY APPLICATION NO. 153 OF 2003 (D)
IN COMPANY PETITION NO. 7 OF 1995

(Official Liquidator & Liquidator of Orange City Builder Pvt. Ltd. Vs. Shri Vasant Motiram Sonewane & Ors.)

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

Court's or Judge's orders.

Shri Shriniwas Deshpande, Counsel for the Official Liquidator.

Shri Gopal Sawal with Shri Yash Kataria, Counsel for non-applicant no.2 in CAO 274/2024.

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CORAM : ANIL L. PANSARE, J.
FEBRUARY 29, 2024.

COMPANY APPLICATION NO. 233/2024

The learned Counsel for the Official Liquidator submits that there are two assets/properties, namely, Roof right/open terrace of Nilay Apartment, Ramnagar and Roof right/open terrace of Mahalaxmi Apartment, Daga Layout, Nagpur. These properties have been yet not sold. Accordingly, he submits that the order directing dissolution of Company be recalled.

2] In view of above, Clause (v) of the operative order dated 2/2/2024 stands recalled. It be replaced as under :

“(v) The misfeasance proceedings stand closed. The Civil Application No. 153/2003 is accordingly disposed of.”

3] The Civil Application is accordingly disposed of.

COMPANY APPLICATION NO. 274/2024

4] By the present application, non-applicant no.2 – ex-director is seeking to recall order dated 2/2/2024 by which the ex-directors were held guilty of misfeasance and were directed to repay the amount of Rs.5,31,000/- along with interest @ 6% per annum.

5] The learned Counsel for non-applicant no.2 submits that his clerk failed to file Vakalatnama and, therefore, on 2/2/2024, his name was not reflected in the cause list. He did not attend the matter and order came to be passed. He submits that non-applicant no.2 has a very good case on merits. He has relied upon the judgment of the Hon’ble Supreme Court in the case of *Rafiq And Another Vs. Munshilal And Another* [(1981) 2 SCC 788] wherein the Supreme Court has held that the contesting parties should not suffer for the lapses on part of their Counsels and ex parte order of dismissal of appeal for non-appearance of the appellant’s Counsel could be recalled.

6] In my view, this judgment will be of no assistance inasmuch as this Court has passed order on merits considering the material available on record. The proceedings have been not dismissed for absence of the Counsel.

7] In the circumstances, the order cannot be recalled.

8] The Civil Application is rejected.

(ANIL L. PANSARE, J.)

Sumit