Comp.A.No.58 of 2024
in CP.No.163 of 2003

KRISHNAN RAMASAMY, J.

1. This Company Application has been filed by the Official Liquidator for the following reliefs:-

    (a) To take the report on record.

    (b) To permit the Official Liquidator to put the immovable asset (unexpired leased hold rights of land measuring 3.69 acres situated at B3, SIPCO Industrial Complex, Kudikadu, Cuddalore) as well as movable assets of the Company in Liquidation for sale by inviting sealed tenders from the intending purchasers on “as is where is and whatever there is basis” and no warranty on title.

    (c) To permit the Official Liquidator to submit the valuation report as stated supra in paragraph no.17 to open and fix the upset price.

    (d) To approve the sale notice, terms and conditions and tender form, enclosed as Annexure-A to this report.

    (e) To permit the Official Liquidator to issue tender form along with terms and conditions to the intending purchasers at the rate of Rs.1,500/- non refundable per form.

    (f) To permit the Official Liquidator to publish the sale notice interest he following News Papers.

        1. The Indian Express in English-Southern edition and
        2. Dinamani in Tamil – Tamil Nadu edition.

    (g) To permit the Official Liquidator to meet all incidental expenses towards sale of assets of the Company in Liquidation such as advertisement, valuation, inspection charges, cost of this application etc, from the funds of common pool fund account and recoup the same after realisation of the assets of the Company in Liquidation.

2. This Court heard the Official Liquidator and the learned counsel for the Respondent.

3. By virtue of the order dated 18.12.2003, the Company was wound up and the

Official Liquidator was appointed as the Liquidator of the Company to take charge of the assets of the Company. The Official Liquidator, stating that pursuant to the earlier order of this Court passed in CA.No.312 of 2007 filed by the Official Liquidator for sale of the assets of the Company in Liquidation, a valuation report was obtained, has filed this Company Application to bring the land measuring 3.69 acres, over which the Company in Liquidation has leasehold rights by virtue of the lease deed dated 20.06.1985 entered into between the Company and SIPCOT, for sale and for other reliefs as stated above.

4. On a perusal of the said lease deed, as per clause 17, during the period of lease and thereafter, the part of the Second Part, the Company in Liquidation, at his expenses shall keep the buildings, premises and other structures clean free from defect and in good repair. As per clause 19 of the said lease deed, the party of the Second Part shall not directly or indirectly transfer, assign sell, encumber or part with his interest, either in part or in whole, in any manner whatsoever without the previous approval of the party of the First Part, namely, SIPCOT in writing and it shall be open to the party of the First Part to grant or refuse approval or to impose any conditions it consider necessary and suitable.

5. In view of the Clause 19 of the said lease deed, the lease hold rights in the assets of the Company in Liquidation can be sold only after obtaining permission from SIPCOT. But, admittedly no such permission from SIPCOT is obtained by the Official Liquidator. Since the said aspect was not brought

to the notice of this Court, this Court earlier passed orders permitting the Official Liquidator to bring the assets of the Company in Liquidation for sale in the public auction. Since it is now brought to the notice of this Court that the lease hold rights in the assets of the Company in Liquidation can be sold only with the permission of SIPCOT, this Court does not find any merit in the submissions of the Official Liquidator to sell the assets of the Company in Liquidation without the permission of SIPCOT. Therefore, this Company Application is not maintainable and accordingly, it is dismissed. However, the Official Liquidator is at liberty to move the Court after obtaining appropriate permission from SIPCOT for sale of the assets of the Company in Liquidation in terms of Clause 19 of the said lease deed. No costs.

20.06.2024

Index:Yes/No
Web:Yes/No
Speaking/Non Speaking
Neutral Citation:Yes/No
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