Comp.A.Nos.49 to 51 of 2017
in
C.P.No.13 of 2000

Reserved On	22.12.2023
Pronounced On	25.03.2024

C.SARAVANAN, J.

These Company Applications have been filed by Mr.C.Natesan, the promoter of the Company under liquidation namely M/s.Anubhav Green Farms and Resorts Private Limited [AGFRPL] under Section 466 of the Companies Act, 1956 read with Rule 6 and Rule 9 of the Companies Court Rules, 1959 for the following reliefs:-

a) C.A.No 49 of 2017 - To direct the Respondent to deliver the original title deeds of the 32 plots of land morefully set out in the letters dated 01.09.2016 and 22.07.2016 which is the property of Anubhav Green Farms and Resorts Private Limited to the Applicant.

b) C.A.No. 50 of 2017 - To permanently stay the winding up proceedings in relation to Anubhav Green Farms and Resorts Private Limited taken out pursuant to the order of winding up dated 20.01.2000 in C.P. No. 13 of 2000 in terms of Section 466 of the Companies Act, 1956.

c) C.A.No.51 of 2017 - To direct that the Applicant will be entitled to deal with the property of Anubhav Green Farms and Resorts Private Limited on his own so as to facilitate the revival of Anubhav Green Farms and Resorts

Private Limited.

2. The Applicant is a Promoter and contributory of M/s.Anubhav Green Farms and Resorts Private Limited [AGFRPL]. Among other companies and Firms, the applicant had promoted M/s.Anubhav Plantations Limited [APL], the respondent in C.P.No.130 of 1999. M/s.Anubhav Plantations Limited [APL], the flagship Company was ordered to be wound up on 02.11.1999.

3. M/s.Anubhav Green Farms and Resorts Private Limited [AGFRPL] Company was ordered to be wound up by this High Court vide its order dated 21.06.2000 in C.P.No.13 of 2000.

4. The main business activity of M/s.Anubhav Plantations Limited [APL] was to receive deposits from the public/investors on a long-term basis for the purchase of agricultural lands in the name of public/investors and development of teak wood plantation on a long- term process.

5. For this purpose, M/s.Anubhav Plantations Limited [APL] and/or its nominee would enter into a Power of Attorney with the land owners, whereby authority was provided to the former to sell the agricultural lands to prospective investors/depositors of M/s.Anubhav Plantations Limited [APL]. Thereafter, the Power Agent would sell the land to the investors/depositors by way of a Sale Deed. M/s.Anubhav Plantations Limited [APL] then would enter into a Maintenance Contract with the investors/depositors, whereby the possession of the lands were handed over to M/s.Anubhav Plantations Limited [APL] for planting and maintaining teak wood trees at its cost. Future sales from the teakwood farms was to be paid as returns to the investors/depositors.

6. As regards M/s.Anubhav Green Farms and Resorts Private Limited [AGFRPL], the respondent in C.P.No.13 of 2000, the Company did not accept any deposits from Public. The lands were purchased from the capital of the Company through Power of Attorney and then, the lands were to be sold and registered in the favour of the investors/depositors by M/s.Anubhav Green Farms and Resorts Private Limited [AGFRPL]. The

land owners who paid amounts in advances were accounted in the Balance Sheet of the Company.

7. The balance consideration were to be paid to the land owners at the time of sale to the investors/depositors. The Company would thereafter enter into a Maintenance Contract with the investors/depositors for the purpose of developing plots allotted to them and provide various services including planting and maintenance of trees, establishing and maintaining a country club etc. M/s.Anubhav Green Farms and Resorts Private Limited [AGFRPL] is said to have developed and plotted about l00 Acres of lands into 500 plots in Santhavellore, Chittore and Podavur Villages, Sriperumbudur Taluk, Kanchipuram District and named it as Anubhav Green Rich Village.

8. C.P.No.13 of 2000 was filed by the applicant under Sections 433(f), 433(C), 439(1)(c), and 443(1)(d) of the Companies Act, 1956. Prior to the aforesaid order of winding up of M/s.Anubhav Green Farms and Resorts Private Limited [AGFRPL], by an order dated 20.01.2000,

this Court had also appointed the Official Liquidator, the respondent herein as its Provisional Liquidator to deal and to liquidate the assets and properties in order to protect and to secure the interest and capital of investors/depositors.

9. Arguing on behalf of the applicant in these applications, the learned counsel for the applicant has explained the background which led to collapse of the business carried out by the Anubhav Group. He had submitted that the Central Government vide its Press Release dated 18.11.1997 decided that an appropriate regulatory framework be put in place for regulating the entities which issued instruments such as agro bonds, plantation bonds etc. It was decided that such scheme be treated as a Collective Investment Schemes under the purview of the Securities and Exchange Board of India (SEBI) Act, 1992.

10. Circular/Press Note dated 24.02.1998 bearing Ref.No.PR37/98 was issued by Primary Market Department of Securities and Exchange Board of India (SEBI). The Primary Market Department of Securities and

Exchange Board of India (SEBI) directed that under the Schemes money can be mobilized from the Public through deposits only after obtaining credit rating from one of the credit rating agencies/companies mentioned therein. The aforesaid Circular of SEBI led to a Report dated 14.07.1998 of Duff & Phelps Credit Rating India Private Limited.

11. The said Credit Rating Company had ultimately concluded that rating was constrained by a high degree of uncertainty associated with plantation industry in general. On the operational side, it opined that there was a lack of empirical data to substantiate the projected yields from teak trees over a twenty year period grown under commercial condition as well as the vagaries of nature which can affect the plantations over the long period under consideration.

12. Many of the investors/depositors started demanding return of their monies prior to maturity period to be returned immediately. M/s.Anubhav Plantations Limited [APL] was not in position to honour the same since the monies were invested in the land and teak projects and as

such M/s.Anubhav Plantations Limited [APL] did not have immediate liquidity to meet with the demands of the investors/depositors. In these circumstances, the investors/depositors had lodged complaints before various authorities and proceedings were initiated against M/s.Anubhav Plantations Limited [APL] and M/s.Anubhav Green Farms and Resorts Private Limited [AGFRPL], the applicant, under the provisions of the Indian Penal Code, 1860 and the Tamil Nadu Protection of Interest of Depositors Act, 1997. The applicant was also incarcerated.

13. It is in this background, the flagship Company viz., M/s.Anubhav Plantation Limited [APL] faced slew of demand by investors/depositors and was first proceeded to be wound up in C.P.No.130 of 1999 pursuant to order dated 02.11.1999. The business of M/s.Anubhav Plantation Limited [APL] and its Companies were collapsed. Investors/depositors started demanding return of their investments. Mr.M.Ravindran, Senior Advocate was thus appointed as the Administrator for the Anubhav Group of Companies to assist the Court in expediting the liquidation proceedings.

14. Thus, C.P.No.13 of 2000 was also filed by the applicant herein

to wind up M/s.Anubhav Green Farms and Resorts Private Limited [AGFRPL] under Sections 433(f), 433(C), 439(1)(c), and 443(1)(d) of the Companies Act, 1956 on account of the collapse of the main company namely M/s.Anubhav Plantations Limited [APL] as there were no other persons to manage the business.

15. It is in this background, the M/s.Anubhav Green Farms and Resorts Private Limited [AGFRPL] was ordered to be wound up by an order dated 21.06.2000.

16. Subsequently, by a separate order in a batch of Company Petitions, in C.P.Nos.148 to 401 of 2000 and Tr.C.S.No.463 of 2001, various Partnership Firms which were also carrying on business along with the flagship Company namely M/s.Anubhav Plantation Limited [APL] and M/s.Anubhav Green Farms and Resorts Private Limited [AGFRPL] were also ordered to be wound up by an order dated 05.12.2006. In the winding up proceedings, these Companies and firms were treated as a Single Economic Entity [SEE].

17. All the above mentioned proceedings, barring C.P.No.130 of

1999, against M/s.Anubhav Plantation Limited [APL] were at the behest of the applicant herein who is the Promoter/Director of the two Companies viz., M/s.Anubhav Plantation Limited [APL] and M/s.Anubhav Green Farms and Resorts Private Limited [AGFRPL] and various Partnership Firms.

18. Apart from the above, there were few other Companies viz., M/s.Anubhav More Irrigation Systems Limited, M/s.Anubhav Hire Purchase Limited which were also grouped together and wound up vide order dated 21.01.2000 in C.P.Nos.9 to 17 of 2000.

19. Thus, all the assets of the above Companies including the assets which stood in the name of various Partnership Firms were clubbed together and sold in the course of winding up and the amounts realized were utilized for paying the amounts to the investors/depositors of M/s.Anubhav Green Farms and Resorts Private Limited [AGFRPL] and its group Companies.

20. It is informed by the learned counsel for the applicant

Mr.T.K.Bhaskar that as far as M/s.Anubhav Green Farms and Resorts Private Limited [AGFRPL] is concerned, it had no investors/depositors. It is submitted that the lands were purchased by making payments to the land owners and Power of Attorneys were registered which entitled M/s.Anubhav Green Farms and Resorts Private Limited [AGFRPL] or the nominees mentioned therein to sell the land which was to be maintained by M/s.Anubhav Green Farms and Resorts Private Limited [AGFRPL].

21. Learned counsel for the applicant has drawn attention to the latest Report filed by the Official Liquidator dated 18.08.2023 pursuant to the order of this court dated 24.07.2023, directing the Official Liquidator the respondent herein to file a Report showing the current status of M/s.Anubhav Plantations Limited [APL] and M/s.Anubhav Green Farms and Resorts Private Limited [AGFRPL].

22. From the Report dated 18.08.2023, it is evident that the properties of the M/s.Anubhav Green Farms and Resorts Private Limited [AGFRPL] were sold by way of public auction through orders of this

Hon'ble Court to meet the claims of the investors/depositors. The number of unsold plots were 32. The details of the 32 plots are listed in **Annexure-A** of the Report dated 18.08.2023. In the Report, it is stated that some of the allottees of M/s.Anubhav Green Farms and Resorts Private Limited [AGFRPL] had approached this Hon'ble Court for allotment of alternate plots of equal value in the same layout, which was ordered by this Court on 16.08.2019 in C.A.Nos.1231 to 1233 of 2014, 832, 833 of 2015, 100 and 569 of 2018.

23. The respondent was also directed to hand over the internal roads to the respective panchayats by way of gift deeds. It is further averred that available plots after allotment was reduced to 26 plots pursuant to the aforesaid order dated 16.08.2019 in C.A.Nos.1231 to 1233 of 2014, 832, 833 of 2015, 100 and 569 of 2018.

24. Learned counsel for the applicant submits that even as per **Annexure-A** to the aforesaid report, there are about 32 unsold plots of the Company and therefore, this is a fit case for exercising jurisdiction under

Section 466 of the Companies Act,1956 to stay the winding up the proceedings as the Company has not yet been ordered to be dissolved.

25. That apart, he would submit that as per **Annexure-B** to the aforesaid Report, the amount from the sale of various assets of the Anubhav Group of Companies and Partnership Firms which were ordered to be wound up by this Court by the above mentioned order were utilized to settle the claims of about **32744** claimants.

26. It is submitted that almost 90% of the investors/depositors of the group have been already paid in the first installment, second installment and third installments and that still fund position of M/s.Anubhav Plantations Limited [APL] as on date is **Rs.6,18,26,994/-** (Rupees Six Crores Eighteen Lakhs Twenty Six Thousand and Nine Hundred and Ninety Four only).

27. As per the said Report, the present fund position of M/s.Anubhav Green Farms and Resorts Private Limited [AGFRPL] is **Rs. 2,75,108.20/-**. **Annexure - B** to the Report shows the claim details pertaining to the Companies in Anubhav Group. As per the **Annexure-B**, the principal amount along with the interest at the rate of 2.5% thereon in respect of the admitted claims have already been disbursed.

28. A further interest of 1.5% has been proposed to be made under Rule 179 of the Companies (Court) Rules, 1959. **32744** claims out of **35529** claims received were settled. For the remaining **2785** claims, **2591** claims were rejected, **180** claims are under the process of adjudication and **14** claimants have approached this Hon'ble Court for condonation of delay in filing Form No.66 with the Official Liquidator.

29. A total of 180 claims are pending for consideration. The total amount pending to be apportioned is **Rs.4,14,77,501.62/-**, the details of which are reproduced below:-

Proposed interest @ 1.5%	Rs. 1,63,87, 1 50.62/-
Claimed amount in respect of	Rs. 2,50,90,35 1.00/-

pending claims	
Total amount pending to be apportioned	**Rs.4,14,77,501.62/-**

30. It is submitted by the learned counsel for the applicant that there are no liabilities as far as M/s.Anubhav Green Farms and Resorts Private Limited [AGFRPL] is concerned and therefore, the lands which are standing in the name of the M/s.Anubhav Green Farms and Resorts Private Limited [AGFRPL] and the nominees should be ordered to be released as prayed for in these present Company Applications.

31. Thus, it is submitted by the learned counsel for the applicant that even after discharging the pending claims and paying the interest proposed, there will be surplus of money lying in the accounts of M/s.Anubhav Plantation Limited [APL] and M/s.Anubhav Green Farms and Resorts Private Limited [AGFRPL] and therefore, it is submitted that the unsold plots belonging to M/s.Anubhav Green Farms and Resorts Private Limited [AGFRPL] are not required to be sold to meet any of the claims against Anubhav Group.

32. It is submitted that even if the amounts that have been set apart for payment of balance interest at 1.5% in terms of Rule 179 of the Companies (Court) Rules, 1959, there will be still excess amounts available for distribution for the remaining claimants whose claims are pending adjudication and that the amount available will be sufficient to satisfy their claims even if they are admitted.

33. It is further submitted that if the unsold plots are released from the control of the respondent Official Liquidator and provided to the applicant, the business of M/s.Anubhav Green Farms and Resorts Private Limited [AGFRPL] could be revived as there are no other creditors left to whom any monies is due and payable by M/s.Anubhav Plantation Limited [APL] or by M/s.Anubhav Green Farms and Resorts Private Limited [AGFRPL].

34. It is therefore submitted that M/s.Anubhav Green Farms and

Resorts Private Limited [AGFRPL] need not be dissolved. It is therefore submitted that it is a fit case for permanently staying the winding up proceedings of M/s.Anubhav Green Farms and Resorts Private Limited [AGFRPL] and delivering the ownership and the possession of the unsold plots to the applicant so as to enable him to revive the affairs of M/s.Anubhav Gren Resorts Private Limited [AGFRPL].

35. Mr.T.K.Bhaskar, the learned counsel for the applicant has placed reliance upon the decision of the Guwahati High Court rendered in the context of Section 466 of the Companies Act, 1956 in **JahnuBarua** Vs. **Aideopukhuri Tea Estate Private Limited,** (2017) 3 GLR 442. A reference was made to Paragraph No.13 from the said decision which reads as under:-

> *"13.Dissolution of a company through the process of court by way of a winding up proceedings is a drastic measure and should be resorted to only as the last option.* ***If the company is able to show signs of revival or if the grounds given for passing the winding up order are removed, if not, wholly, but to a large extent, then Court may revisit the winding up order. This concern finds its manifestation in Section 466 of the Companies Act, 1956. The endeavor must be to ensure revival of a company, including one under an order of winding up,***

rather than its dissolution."

36. On the other hand, Mr.Dhanraj, learned counsel for the Official Liquidator would submit that these applications are not maintainable. It is submitted that the question of circumventing the procedure prescribed under the Companies Act, 1956 cannot be allowed as the only method in which the Company can be revived is under Section 391 of the Companies Act, 1956.

37. The learned counsel for the Official Liquidator argued that if the present application is allowed, it would defeat the public interest, commercial morality as there is no *bona fide* intention to revive the business of M/s.Anubhav Green Resorts Private Limited [AGFRPL]. He has placed reliance on the Judgment of the Hon'ble Supreme Court in **Meghal Homes (P) Ltd.** Vs. **Shree NiwasGirni K.K. Samiti & Ors** (2007) 7 SCC 753.

38. The learned counsel for the Official Liquidator relied on the

Judgment of the Hon'ble Division Bench of this Court in **Sree Shanmugar Mills Ltd,** Vs. **S.K.Dharmaraja and another,** 1968 SCC Online Mad 68, where the applicant therein prayed that the winding up order should be stayed and the shareholders should be permitted to raise money from third parties, pay off the creditors and run the mills themselves, which was not allowed by this Court. The relevant Paragraph of the order reads as under:-

> *"31. No case has been brought to our notice, and we have not been able to and any, where in a case analogous to the present, the Court stayed the winding up order. On the contrary, the principles laid down in the decided cases forbid us from staying the winding up order either permanently or for a limited period, on the terms actually put forward before us so far. We need not add that even if we dismiss the appeal now, it will not preclude the shareholders from making an application under Section 468later with a proper proposal. The only difference will be that the application will have to be made to the company Judge, and not this appellate Court, after the disposal of the appeal.*
>
> *32. We accordingly dismiss 0.S.A. No. 68 of 1959 with liberty to the share holders to put forward a proper scheme of reconstruction and apply for the staying the winding up order under Section 466 before the Company Judge. C.M.P. Nos. 14419and 14420 of 1967 are dismissed."*

39. The learned counsel for the Official Liquidator has placed

reliance on the decisions of the Bombay High Court in **Forbes & Company Official Liquidator,** 2011 SCC Online Bom 1378 to argue that an application under Section 466 of the Companies Act, 1956 is not maintainable without proposing a compromise or arrangement under Section 391 of the Companies Act, 1956 and submits that these Company Applications are liable to be dismissed. Relevant Paragraph of the Order reads as under :-

> *"42. In such circumstances ,if all the above tests and principles are applied, it is evident that his company application is filed for seeking a stay of the winding up not for revival of the company's business or to smoothen the process of liquidation and winding up, but to take over the company itself in an indirect and oblique manner. There is substance in the objection of Ms. Cox that this is a take over of the company without recourse to the provisions in law enabling such take over and particularly section 391, 392 to 394 of the Act. To by pass and avoid compliance with such provisions, that this application is filed. Once such is the motive, then, the enormity of the funds, the applicants are willing to pump in, the schemes or arrangements of settlement of the dues of creditors, cannot persuade this Court to grant any discretionary relief to them and prevent the Liquidator from proceeding to wind up the company in accordance with law."*

40. On the issue regarding the non-applicability of Rule 9 of

Company Court Rules, 1959, the learned counsel for the Official Liquidator submits that C.A.No. 50 of 2017 is filed by the applicant under Section 466 of the Companies Act, 1956 seeking for permanent stay of the liquidation proceedings of the Company in liquidation. This being so, it is submitted that the reliance of the applicant to Rule 9 of the Company Court Rules, 1959 seeking the intervention of the Hon'ble Court, to exercise its inherent powers is against the principle laid down in the Judgments passed by various Courts including the decision of Hon'ble Delhi High Court in the matter of **Bipla Chemical Industries** Vs. **Shree keshariya Investment Ltd.,** (I977) 47 Com Cases 211 and **P.R.M. Abdul Huq** Vs. **The Katpadi Industries Ltd., & Another** (1959) SCC Online Mad 224, which laid down the criteria to be satisfied for invoking the inherent powers. It was further submitted that the applicant cannot invoke the inherent powers of the Company Court under Rule 9 for seeking permanent stay of winding up, when there is an express provision for the same.

41. It is further submitted that the inherent powers of the Court can

be invoked only where express provision has been made in the Companies Act and its Rules and submitted that the reliance of Rule 9 of the Company Court Rules, 1959 by the applicant is not applicable in the present case.

42. On the issue regarding the dealings with the assets of the Company in liquidation and handing over of the title deeds to the applicant, the learned counsel for the Official Liquidator submits that any surplus assets could be handed over to the contributory only after distribution of all the amounts to all the creditors under the waterfall mechanism as per Sections 529, 529A, and 530 of the Companies Act, 1956 and submitted that the respondent/Official Liquidator is required to handover any surplus assets to the Ex-Directors pursuant to the distribution of amounts to all the creditors as per aforesaid provisions of the Companies Act, 1956.

43. It is further submitted that the contention of the Applicant that the fund positions of the Company and its groups are sufficient to deal

with the dues of the Company in liquidation would not aid the applicant for seeking permanent stay of the winding up proceedings.

44. By way of rejoinder, the learned counsel for the applicant stated that the respondent's reliance on ***Meghal Homes (P) Limited's case (referred to supra)*** does not assist the respondent's case in any manner whatsoever as the issue therein was completely different. It is submitted that in the aforesaid case, it was argued that unless the Court is satisfied that the company is being taken out of liquidation by way of revival under Section 466 of the Companies Act, 1956 and that it will sub-serve public interest and will conform to commercial morality, the Court cannot accept a Scheme proposed under Section 391 of the Companies Act, 1956.

45. It was further submitted that the Hon'ble Apex Court observed that both provisions should be read harmoniously and further held that in terms of Sections 391 to 393 of the companies Act, 1956, the court had the power to accept the compromise or arrangement even in respect of a Company ordered to be wound up, independent of Section 466 of the

Companies Act, 1956.

46. The learned counsel for the applicant would submit that the issue regarding non-maintainability of application under Section 466 of the Companies Act, 1956 without proposing a compromise or arrangement under Section 391 of the Companies Act, 1956 has been answered in the Guwahati High Court Judgment, which has been cited above. It is submitted that Section 466 of the Companies Act, 1956 makes it clear that a Company Court can stay the proceedings and therefore, the question of the applicant approaching the Court or the NCLT under Section 391 of the Companies Act,1956 does not arise.

47. The learned counsel for the applicant stated that in the facts of ***Shanmugar Mills Limited's case (referred to supra)***, the debts of the creditors were not completely paid. However, in the present case, there is adequate money lying in the liquidation account to meet the pending claims of the creditors, and submitted that there is no necessity in the respondent holding the unsold plots of the Company till its dissolution and

submitted that the said decisions cannot be applied to the facts and circumstances of the present applications.

48. On the issue regarding the non-applicability of Rule 9 of Company Court Rules, 1959, the learned counsel for the applicant would submit that the present applications are filed under Section 466 for permanent stay of winding up, and thus, the Applicant has not sought to invoke the inherent powers of the court. Thus it is submitted that the argument advanced by the Respondent/Official Liquidator does not deserve any consideration at all by this Hon'ble Court.

49. The learned counsel for the applicant would submit that Sections 529, 529 and 530 of the Companies Act, 1956 mandate the payment of the debts in priority basis and does not state that the surplus assets after paying all the debts should be handled as per the waterfall mechanism as erroneously contended by the respondent. It is submitted that under the Scheme of the Act, after the debts of the creditors are paid, if the Company can be revived with the surplus assets, then such revival is permissible

under Section 466 of the Companies Act, 1956. It is further submitted that in the present case, there is adequate money lying in the liquidation account to meet the pending claims of the creditors, and therefore, the remaining plots can be handed over to the applicant for reviving the Company.

50. I have considered the arguments advanced by the learned Senior Counsel for the applicant and the learned counsel for the Official Liquidator.

51. The facts are not in dispute that the applicant is a contributory of M/s.Anubhav Green Farms and Resorts Private Limited [AGFRPL], the Company under liquidation which was ordered to be wound up on 20.01.2000 in C.P.No.13 of 2000.

52. M/s.Anubhav Green Farms and Resorts Private Limited [AGFRPL] was ordered to be wound up at the instance of the applicant

under Sections 433(f), 433(C), 439(1)(c), and 443(1)(d) of the Companies Act, 1956.

53. The reasons for filing C.P.No.13 of 2000 was collapse of the business carried on by the flagship Company namely M/s.Anubhav Plantations Limited [APL] (also in liquidation in C.P.No.130 of 1999 pursuant to order dated 02.11.1999), in view of the Circular/Press Note issued by Primary Market Department, Securities and Exchange Board of India (SEBI) bearing Ref.No.PR 37/98 dated 24.02.1998 and in view of incarceration of the applicant who was the promoter of M/s.Anubhav Plantations Limited [APL] and group of companies and firm which were treated as single economic entity by this Court.

54. It is also not in dispute that the M/s.Anubhav Green Farms and Resorts Private Limited [AGFRPL] had no depositors unlike other Companies promoted by the applicant and innumerable Partnership Firms floated by the applicant for collecting deposits for developing the teak plantations, promising return to the investors/depositors.

55. The Report filed by the Official Liquidator dated 18.08.2023 pursuant to the order of this Court dated 24.07.2023 shows the current status of M/s.Anubhav Plantation Limited [APL] and M/s.Anubhav Green Farms and Resorts Private Limited [AGFRPL].

56. The Report indicates that practically all the investors/depositors have been settled and the present fund position of M/s.Anubhav Plantation Limited [APL] is pegged at **Rs.6,18,26,994.33/-** and the present fund position of M/s.Anubhav Green Farms and Resort Private Limited [AGFRPL] is **Rs.2,75,108.20/-**. These amounts are still lying with the Office of the Official Liquidator.

57. A portion of the aforesaid amount is to be utilized for settling rest of the pending claims of the investors/depositors who have filed their Claim Statements belatedly before the Office of the Official Liquidator.

58. It is informed that, even after settling the claims of the pending claimants/creditors, there will still be excess amount that will remain in the

hands of the Office of the Official Liquidator which will have to be eventually paid to contributories as per the provisions of the Companies Act, 1956. Thus, the balance amount will have to be returned to the applicant as a contributory of M/s.Anubhav Green Farms and Resorts Private Limited [AGFRPL].

59. It transpires that there were only 26 plots on the date when this case was reserved for orders and not 32 plots as was argued by the learned counsel for the applicant. Pursuant to Order dated 16.08.2019 in C.A.Nos.1231 to 1233 of 2014, 832, 833 of 2015, 100 and 569 of 2018, after allotting alternate plots of equal value in the same layout to various allottees of M/s.Anubhav Green Farms and Resorts Private Limited [AGFRPL], only 26 plots remained unsold.

60. Recently, this Court vide its order dated 22.03.2024 allowed Comp.A.No.76 of 2024 in C.P.No.13 of 2000 filed by another investor and directed the Official Liquidator to execute a Sale Deed in favour of the applicant in Comp.A.No.76 of 2024 in respect of Plot No.162/3 in Podavur

village, Sriperumbudur Taluk, Kanchipuram District. Thus, only 25 plots remains unsold as on date.

61. By dissolving the Company namely M/s.Anubhav Green Farms and Resorts Private Limited [AGFRPL], no useful purpose will be served except to monitize the remaining plots which remains unsold. The monetized amounts will also be paid to the applicant as the contributory of M/s.Anubhav Green Farms and Resorts Private Limited [AGFRPL].

62. Therefore, discretion under Section 466 of the Companies Act, 1956 read with Rule 9 of Company Court Rules, 1959 to stay the winding up and further as dissolution of the Company can be allowed as it neither benefits the applicant as promoter(s) of M/s.Anubhav Plantation Limited [APL] nor M/s.Anubhav Green Farms and Resorts Private Limited [AGFRPL] nor any of the group Companies nor the remaining depositors whose claims are pending further adjudication by the Official Liquidator.

63. Therefore, M/s.Anubhav Green Farms and Resorts Private

Limited [AGFRPL] can be ordered to be revived. It is not required that the applicant should file application under Sections 391 and 392 of the Companies Act, 1956 as a company application.

64. Since the amounts realized from the sale of the assets of the Company viz., M/s.Anubhav Green Farms and Resorts Private Limited [AGFRPL] and M/s.Anubhav Plantation Limted [APL] are sufficient to meet the liability to the investors/depositors whose claims are pending adjudication before the Office of Official Liquidator, Comp.A.No.49 of 2017 can be partly allowed to the extent of remaining 25 plots in Podavur village, Sriperambudur Taluk, Kanchipuram District to the applicant in his capacity of the director of M/s.Anubhav Green Farms and Resorts Private Limited [AGFRPL].

65. However, there shall be lock-in period of five years against any sale, transfer or alienation of these 25 plots by M/s.Anubhav Green Farms and Resorts Private Limited [AGFRPL]. Comp.A.No.51 of 2017 in C.P.No.13 of 2000 can also be allowed to a limited extent.

66. The Office of the Official Liquidator shall retain sufficient amount required to meet out the pending claims of the claimants/creditors out of **Rs.2,75,108.20/-** which remains with the Office of the Official Liquidator.

67. Balance from **Rs.2,75,108.20/-** after retaining the amounts for settling the pending claims of the claimants/creditors shall be transferred to M/s.Anubhav Green Farms and Resorts Private Limited [AGFRPL]. 50% of the amount shall be invested in a Fixed Deposit in nationalized bank for a period of three years. This will be to secure the interest of Income Tax Department and any other contingent liability.

68. Balance amount shall be used by the M/s.Anubhav Green Farms and Resorts Private Limited [AGFRPL] to revive its business.

69. The Official Liquidator shall therefore endeavor to settle the pending claims of the remaining claimants preferably within a period of

thirty days from the date of receipt of a copy of this order.

70. At the end of the expiry of 30 days or such period or such extended period, balance out of **Rs.2,75,108.20/-** shall also be transferred to M/s.Anubhav Green Farms and Resorts Private Limited [AGFRPL]. The applicant may open a bank account for the aforesaid purpose.

71. It is made clear that there shall not be any unilateral appropriation of amounts by the applicant as the promoter of M/s.Anubhav Green Farms and Resorts Private Limited [AGFRPL] except for the purpose of carrying on the business of M/s.Anubhav Green Farms and Resorts Private Limited [AGFRPL].

72. Consequently C.A.No.50 of 2017 in C.P.No.13 of 2000 is allowed. Comp.A.No.51 of 2017 in C.P.No.13 of 2000 is also allowed to the extent of remaining 25 plots.

73. In case the Company M/s.Anubhav Green Farms and Resorts Private Limited [AGFRPL] is unable to carry on the business with the

remaining plots consistent with the objects stated in the Memorandum of Association and its Articles of Association, they may be amended and only thereafter the remaining plots be disposed or alienated or transferred strictly in accordance with the amended Articles and Memorandum of Association of the Company and in consonance of the Company Act, 2013.

74. These Company Applications stand partly allowed and disposed with the above restrictions and observations.

25.03.2024

ssr/arb

C.SARAVANAN, J.

ssr/arb

Comp.A.Nos.49 to 51 of 2017
in C.P.No.13 of 2000

25.03.2024