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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **CO.APP. 7/2024**

RASHMI SINGH & ANR.Appellants

Through: Mr Udhav Pratap, Advocate.

versus

OFFICIAL LIQUIDATOR & ANR.Respondents

Through: Ms Ruchi Sindhwani, SSC and Ms
Megha Bharara, Advocate.

CORAM:

HON'BLE MR. JUSTICE VIBHU BAKHRU

HON'BLE MS. JUSTICE SWARANA KANTA SHARMA

ORDER

% **13.11.2024**

1. The appellants have filed the present appeal impugning an order dated 08.02.2024 passed by the learned Company Court in Company Application No.1368/2017 in Company Petition No.178/2012 captioned *Pankaj Paliwal v. M/s Vian Infrastructure Limited & Ors.*
2. The aforesaid application was taken up along with several other miscellaneous applications and were disposed of with a direction to the appellant to submit their claims along with relevant documents with the Official Liquidator within the period of four weeks from the said date. The Official Liquidator was also directed to examine the same in accordance with law.
3. The appellants had filed the aforesaid application in Company Petition No.178/2012, *inter alia*, praying as under:-

“It is therefore requested that Ld. Official Liquidator be kindly directed not to take any action for auctioning/selling the land/ property measuring the area 167.22 Sq. Meters forming part of Chak No.680, Khasra No.899, Khasra No.900 and Khasra No.908/3 (Private plot No.125 Sector-3)



situate at village Badhedi Rajputana Pargana and Tehsil Roorkee District Haridwar bounded and butted as under:-

North : 40 Feet wide Road
South : Plot No.136
East : Plot No. 126
West : Plot No. 124

And the Ld. official Liquidator be also kindly directed not to interfere in the ownership and possession of this property of the applicants.

And the Ld. Liquidator be also kindly directed that this land/ property was not of respondent Co. and he had no power or authority to take over this land belonging to the applicants and the application be kindly allowed.”

4. It is the appellants’ case that they acquired certain land from one Amit Khurmi in terms of the registered sale deed dated 29.05.2009. The scheduled of the property (hereafter referred as *the subject property*) as included in the registered sale deed is reproduced as under:-

“SCHEDULE OF THE PROPERTY

All that land measuring 167.22 Sq. meters forming part of Chak No.680, Khasra No.899, Khasra No. 900, & Khasra No. 908/3 (Private plot No 125, Sector-3) situated at village Badhedi, Rajputan, Pargana and Tehsil Roorkee, District- Haridwar bounded and butted as under :-

North : 40 Feet Wide Road.
South : Plot No 136.
East : Plot No 126.
West : Plot No 124.”

5. The appellants case that she had since purchased the subject property from its owner directly, the company in liquidation has no right, title or interest in the subject property. Consequently, any action of the Official Liquidator in interfering with the appellant’s possession of the subject



property or taking any further steps, would be without authority of law.

6. It is relevant to note that late Shri Niwas Singh (the father and predecessor in interest of appellant no.2) had also entered into the Plot Buyer Agreement (hereafter *the Agreement*) with the company in liquidation on 01.01.2009. The first recital of the Agreement is relevant and it reads as under:-

“(i)The ‘First Party’ either on its own or through its subsidiary Company or Companies, where one of Vian's Director(s) is Director, or through individual name of its Directors and their family members, through Collaboration Agreement, Deed of Undertaking. Memorandum of Understanding. Registered Sales Deed/Lease Deed/Conveyance Deed/Transfer Deeds, Agreements etc. have acquired rights on the land in the revenue estate of village Badedi Rajputana and Tehsil and District Roorkee (hereinafter referred to as the “said Land”) and is fully seized and possessed of or otherwise well and sufficiently entitled to deal with the said Land.”

7. There is no dispute that the Agreement also relates to the subject property. The Agreement mentions the description of the property as Plot no.95, however, there is no dispute that the subject matter of the Agreement is the same land which the appellants claims to have acquired by virtue of the sale deed dated 29.05.2009.

8. It is also relevant to refer to clause 3 of the aforementioned sale deed, which expressly refers to the Agreement. Further, the sale deed also records that the appellant had agreed to abide by the terms and conditions of the Agreement (Contract No.H-232 dated 01.01.2009). The third recital and the relevant clauses of the Agreement, which indicate a connection with the



Agreement, are set out below:-

“AND WHEREAS the representative of the seller on behalf of the seller has signed Plot/Seller/Buyer Contract No.H-232 dated 1-1-09 with the purchaser and the seller has agreed to sell and the purchaser has agreed to purchase the Plot mentioned in the schedule of this deed for a total amount of Rs.1,70,000/- (Rupees One Lac Seventy Thousand only)

2. The seller hereby covenants with purchaser as follows:

(a) That the purchaser hereby agrees to abide and fulfill the terms and conditions mentioned in Plot/Seller/Buyer Contract No.H-232 dated 1-1-09 entered into with the representative and on behalf of the Seller and in case the purchaser fails to comply with the conditions mentioned in that agreement than this sale deed will automatically become null and void and shall have no force.”

9. It is apparent from the above that the transaction entered into by the appellants were inter linked. The appellant had entered into the Agreement prior to execution of the sale deed with the owners.

10. As noted above, the Agreement – which is prior in point of time than the sale deed – expressly indicates that the company in liquidation had acquired certain rights in immovable properties and the appellant had acknowledged the same. The said documents, which evidence the transactions between the company in liquidation and the owners is not on the record. However, it is apparent that the same may have bearing on the rights of the appellant in respect of the subject property.

11. We do not propose to examine the aforesaid controversy in this appeal. Suffice it to note that the appellants’ contention that they have



independently acquired the title to the subject property by an unconnected transaction, cannot be readily accepted.

12. We note that the learned Company Court had permitted the appellant to raise all the claims before the Official Liquidator with the direction that the Official Liquidator shall examine the same in accordance with law.

13. Since, it is appellants' case that they are the owner of the subject property and not the company in liquidation, it would be necessary for the Official Liquidator to examine this aspect as well.

14. We, accordingly, dispose of the appeal by clarifying that the Official Liquidator shall, in the first instance, examine the appellant's claim including and in regard to being owner of the subject property. The appellants shall file their claim and all relevant documents in their possession before the Official Liquidator including in respect of the subject land before the Official Liquidator within the period of four weeks from date.

15. Needless to state that if the appellant is aggrieved by any of the conclusions drawn by the Official Liquidator, the appellants are not precluded to avail their statutory remedies.

16. The appeal is disposed of in the aforesaid terms.

VIBHU BAKHRU, J

SWARANA KANTA SHARMA, J

NOVEMBER 13, 2024

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Click here to check corrigendum, if any