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ORDER SHEET

APO/169/2023
WITH
CP/289/2009
IA NO: ACO/1/2023, ACO/3/2024

IN THE HIGH COURT AT CALCUTTA
Civil Appellate Jurisdiction
ORIGINAL SIDE

RE CARRIT MORAN AND CO PVT LTD (IN LIQN)
VS
TAPAN KUMAR BANERJEE AND ORS
-VS-
O/L HIGH COURT CALCUTTA AND ANR

BEFORE:
The Hon'ble JUSTICE ARIJIT BANERJEE
AND
The Hon'ble JUSTICE RAI CHATTOPADHYAY
Date : 9th June, 2025.

Appearance:
Mr. Sujit Banerjee, Adv.
Mr. Nilay Sengupta, Adv.
Ms. Sunanda Samanta, Adv.
..for the applicants

Mr. Sourav Kumar Mukherjee, Adv.
Ms. Sahana Pal, Adv.
Mr. Souhardya Mitra, Adv.
..for the Official Liquidator

Dictated by Arijit Banerjee, J.

The Court: Learned Advocate for the Official Liquidator says that although formally this appeal was not disposed of, for all practical purposes, the appeal should be treated as disposed of. Hence, this application in the appeal should not be entertained.

We are told that the appeal is shown as pending in the Website. Hence, we take up the application for consideration on merits.

The appellants are ex-workmen of the company (in liquidation). In this appeal they had challenged an order transferring the winding-up proceedings to the National Company Law Tribunal (in short, NCLT). They had also asserted their claim under Section 529A of the Companies Act, 1956. Orders were passed allowing their claim.

The present applicants also claim to be ex-workmen of the company (in liquidation). This is not disputed by learned counsel for the Official Liquidator. However, he points out that these applicants superannuated prior to the company going into liquidation. The applicants received their retiral benefits. Thereafter, they deposited such benefits with the company for obtaining higher returns, by way of investment. Therefore, the claim of these applicants do not come within the purview of Section 529A of the Companies Act.

The submission made on behalf of the Official Liquidator may have some merit. However, we find from a chart annexed to the present petition and marked with the letter "A", which has been prepared by the office of the Official Liquidator, that the claims of the present applicants have been allowed by the Official Liquidator. At the same time, we notice the averments made at paragraph 15 of the affidavit-in-opposition affirmed on behalf of the Official Liquidator, which reads as follows:

> "I have made the calculation for better understanding and proper adjudication of the claims of the appellants herein:
>
> Present Fund Position as of date: Rs.2,69,27,577/-
>
> Claims admitted by the Official Liquidator
>
> Depositor's claim (66 no's) – Rs.6,25,22,701/-
>
> Inter Corporate Lenders – Rs.9,52,48,108/-
>
> Thus, total admitted claim – Rs.15,77,70,809/-

> Therefore, the proportionate/pro-rata distribution should come to 17.067% to each and every ordinary claimant whose claim have been admitted and are in the list.
>
> Since the claim admitted in respect of 9 nos. of the appellants is Rs.61,44,764/-, therefore, if being considered by this Hon'ble Court, the total amount of Rs.10,48,727/- equivalent to 17.06% to appellants (9) herein, may be disbursed according to their individual admitted claim as per list annexed in pages 14 to 16 of the application."

We, therefore, see that proportional part of the claim of the present applicants may be disbursed by the Official Liquidator in terms of paragraph 15 of the affidavit-in-opposition. Let that be done within four weeks from date.

Insofar as the balance claim of the applicants is concerned, it will be open to them to file such legal proceedings in accordance with law before the appropriate forum as they may be advised.

The applications being ACO/1/2023 and ACO/3/2024 as well as the appeal being APO/169/2023 stand disposed of.

(ARIJIT BANERJEE, J.)

(RAI CHATTOPADHYAY, J.)

bp.