

Appellant Vs. Respondent

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Court : Kolkata

Decided On : Aug-31-2012

Judge : Sanjib Banerjee

Appellant : Appellant

Respondent : Respondent

Judgement :

IN THE HIGH COURT AT CALCUTTA ORIGINAL JURISDICTION CA No.334 of 2012 CP No.261 of 2002 IN THE MATTER OF: JENSON & NICHOLSON FINANCIAL SERVICE LTD(LIQN.) AND IN THE MATTER OF : MR CHENNASAMY MUTHUSAMY AND CA No.478 of 2007 CP No.261 of 2002 IN THE MATTER OF: JENSON & NICHOLSON FINANCIAL SERVICE LTD(LIQN.) BEFORE: The Hon'ble JUSTICE SANJIB BANERJEE Date :

31. t August, 2012.

Appearance: Mr.K.Anand Rao Official Liquidator Mr.R.Chowdhury, Adv.Mr.Rajeev Kr.

Jain, Adv.Mr.J.Chowdhury, Adv.The Court : A detailed report has been filed by the Serious Frauds Investigation Office.

An abstract of the report has been made over to Court and the fiRs.volume of the report also contains an executive summary spread over seven pages.

At page 189 of the fiRs.volume under Chapter V, some recommendations have been made for taking steps against the erstwhile officers of the company in liquidation, including the promoters who controlled the company prior to it being handed over to the group against whom misfeasance proceedings have been launched by the official liquidator.

The official liquidator will look into Volume 1 of the fiRs.report and seek opinion from Mr.Jishnu Chowdhury, Advocate, on how to carry forward the recommendations and launch criminal or other proceedings against the persons referred to in Volume 1 of the report and, in particular, in the abstract of recommendations made by the Serious Frauds Investigation Office.

The official liquidator should consider whether the application taken out under Section 543 of the Companies Act requires to be amended to incorporate the names of the officers referred to in the report of the Serious Frauds Investigation Office and the body of the application should also be appropriately amended to incorporate the matters evident from the report.

In particular, the official liquidator will seek opinion on how the erstwhile promoters of the company in liquidation, the Sinhas, and the erstwhile executive, J.S.Chatterjee, should be proceeded against.

Mr.Sanjay Banerjee, Assistant Director of the Serious Frauds Investigation Office, is present in Court.

The official liquidator or the officiating official liquidator will ensure that no one other than the official liquidator or the officiating official liquidator and the person from whom opinion is sought have access to the records without previous leave of the company Court.

The official liquidator or the officiating liquidator should maintain contact with the Serious Frauds Investigation Office and go by any further recommendations that may be made by such office for taking appropriate steps against the erstwhile officers of the company in liquidation.

This order is made since it was already known and it is not evident from the report that small investors and many creditors of the company in liquidation have been defrauded by the erstwhile officers of the company in liquidation, inter alia, by diverting funds to the associate concerns of the erstwhile promoters of the company in liquidation from funds obtained from members of the public.

Volume 1 of the report is made over to the official liquidator.

The other unopened volumes should also be retained by the official liquidator and may be handled only by the official liquidator or the officiating liquidator.

Let the matter appear six weeks hence.

Urgent certified photocopies of this order, if applied for, be supplied to the parties subject to compliance with all requisite formalities.

(SANJIB BANERJEE, J.) bp.

A.R(C.R)

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