

Appellant Vs. Respondent

Appellant Vs. Respondent

SooperKanoon Citation : sooperkanoon.com/1059783

Court : Kolkata

Decided On : Feb-08-2013

Judge : Sanjib Banerjee

Appellant : Appellant

Respondent : Respondent

Judgement :

CA No.379 of 2012 CP No.411 of 1982 IN THE HIGH COURT AT CALCUTTA ORIGINAL JURISDICTION IN THE MATTER OF : HIMALAYA SHIPPING Co.LTD.(IN LIQN) BEFORE: The Hon'ble JUSTICE SANJIB BANERJEE Date :

8. h February, 2013.

Ms.Usha Joshi, Adv.appears The Court : Following the order of December 14, 2012, a fair offer has been made by Backbay Premises Co-operative Society LTD.of Jolly Maker Chamber No.2 of Nariman Point, Mumbai.

As would be evident from the order dated December 14, 2012 the best offer for the flat was made by Brij Mohan Chaturvedi, who was present in court on such day and is present today, of Rs.3.50 crore.

However, the offer was made on the basis that there was no liability to the cooperative society in respect of the flat in question.

The cooperative society has a huge claim on account of maintenance and other charges including municipal rates and taxes, but a sizeable part of the cooperative society's claim is on account of penalty and interest.

In such circumstances, the order dated December 14, 2012 required a rational claim to be made by the cooperative society.

The cooperative society has suggested by a letter dated February 4, 2013 addressed to the Official Liquidator that the entire consideration for sale of the flat may be shared between the Official Liquidator and the cooperative society.

The offer of Rs.3.50 crore made by Brij Mohan Chaturvedi has not been raised to Rs.3.70 crore.

In accordance with the letter of the cooperative society to the Official Liquidator, the entire consideration will be shared equally between the Official Liquidator and the cooperative society such that the cooperative society will be paid a sum of Rs.1.85 crore and the Official Liquidator will be paid a sum of Rs.1.85 crore.

Upon both the Official Liquidator and the cooperative society being paid the respective amounts by the purchaser, the purchaser will be entitled to the flat in question and the possession thereof.

Since the flat is in Mumbai and the cooperative society is more closely connected therewith, the Official Liquidator will have no further responsibility, by virtue of this order, after obtaining a sum of Rs.1.85 crore save to execute the deed of conveyance or the transfer documents as applicable under the necessary rules.

It is made clear that the cooperative society will have no further claim in respect of the flat in question on account of maintenance or other charges or on account of municipal rates and taxes as at January 31, 2013.

The purchaser will, however, have to bear all expenses for transfer of the property in the name of Moris Interactive PVT.LTD. It is such Moris Interactive PVT.LTD. which has put in the earnest deposit and all reference to the transferee or purchaser in this order should be understood to be a reference to Moris

Interactive PVT.LTD.Brij Mohan Chaturvedi, who is the controlling share-holder and principal person responsible for Moris Interactive PVT.Ltd., has given an undertaking in court that the controlling interest in Moris Interactive PVT.LTD.will not be altered or transferred to any person outside Brij Mohan Chaturvedi and his immediate relatives for a period of five years from date.

The consequences of the breach of an undertaking given to Court have been explained to Brij Mohan Chaturvedi, who is present in court.

It is clarified that the sum of Rs.1.85 crore to be paid to the Official Liquidator will be upon adjustment of the earnest deposit tendered by Moris Interactive PVT.LTD.to the Official Liquidator.

The balance payment has to be made by Moris Interactive PVT.LTD.within a period of four weeks from date in the proportion as indicated to the Official Liquidator and the cooperative society.

CA NO.379 of 2012 is disposed of without any order as to costs.

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

(SANJIB BANERJEE, J.) Kc.

SooperKanoon - India's Premier Online Legal Search - sooperkanoon.com