

Appellant Vs. Respondent

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Court : Kolkata

Decided On : Jan-16-2013

Judge : Sanjib Banerjee

Appellant : Appellant

Respondent : Respondent

Judgement :

ACO No.261 of 2012 APOT No.592 of 2012 IN THE HIGH COURT AT CALCUTTA ORIGINAL JURISDICTION IN THE MATTER OF: RAVINDRA KUMAR MORE & ORS.AND BEHAR COLD STORAGE PVT.LTD & ORS.BEFORE: The Hon'ble JUSTICE SANJIB BANERJEE Date :

16. h January, 2013.

Appearance: Mr.Abhrajit Mitra, Adv.Mr.J.Chowdhury, Adv.Mr.S.K.

Tiwari, Adv..for the appellants.

Mr.Ratnanko Banerji, Adv.Ms.Ranjabati Sen, Adv.Mr.S.Chowdhury, Adv.Mr.S.Saha, Adv..for the respondent nos.1-3 Mr.Ritobrata Mitra, Adv..for the respondent no.4 & 5 Mr.Debangsu Basak, Adv.Mr.Satarup Banerjee, Adv.Mr.R.Upadhyay, Adv..for the respondent no.8 The Court : The appeal under Section 10F of the Companies Act, 1956 arises out of the refusal by the Company Law Board to pass an interim order on an interlocutory application in proceedings

under Sections 397 and 398 of the Companies Act, 1956.

2 It is the case of the appellants that despite it being brought to the notice of the Company Law Board that the only asset of the company had been alienated and the nature and character thereof had been attempted to be irreversibly changed, the Company Law Board declined to pass any order.

The reasons for entertaining the appeal and for passing an ad interim order thereon have been recorded in the previous order of December 21, 2012.

Joint Receivers were appointed and a report has been filed.

The report has been circulated to all the parties.

The joint Receivers have found that there was some demolition work which had been carried out at the premises in question and the debris had not been removed from the premises.

Since the appeal arises out of an order at the ad interim stage of an interlocutory application filed before the CLB, the same is disposed of by continuing the subsisting order and by requiring the joint Receivers to continue to remain in symbolic possession of the property in question till appropriate orders are passed by the CLB.

The joint Receivers will be paid a further remuneration of 1000 GM each to be shared by the applicants and the alleged transferee of the property in equal measure.

The CLB is requested to dispose of the proceedings under Sections 397 and 398 of the Companies Act, 1956, being CP No.848 of 2011, as expeditiously as the business of the Board permits and, preferably, within eight months from date.

It will be open to the alleged transferee to apply for vacating of the subsisting order in the event there is any attempt by the petitioners before the CLB in delaying the hearing of the main petition.

3 APO No.34 of 2013 and ACO No.261 of 2012 stand disposed of.

It is made clear that the merits of the rival contentions qua the main petition have not been gone into and each of the parties herein will be entitled to canvass whatever ground is available in accordance with law.

There will be no 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.) bp.

A.R(C.R)

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