Appellant Vs. Respondent

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SooperKanoon Citation : sooperkanoon.com/1085410

Court : Kolkata

Decided On : Sep-20-2013

Judge : Harish Tandon

Appellant : Appellant

Respondent : Respondent

Judgement :

ORDER
SHEET C.A.No.667 of 2012 C.P.No.241 of 2009 IN THE HIGH COURT AT CALCUTTA Original Jurisdiction M/S.KAMLAPUR SUGAR & INDUSTRIES LTD.And THE OFFICIAL LIQUIDATOR, HIGH COURT, CALCUTTA & ANR.

BEFORE: The Hon'ble JUSTICE HARISH TANDON Date :

20. h September, 2013.

Appearance : Mr.Abhrajit Mitra,Advocate Mr.D.N.Roychowdhury,Advocate Mr.Indranil Nandy,Advocate Mr.A.K.Sur,Advocate Mr.B.Mohanty,O/L.

The Court : The Ex-Directors of the company in liquidation intervene in the sale proceeding and submits that the company has gone before the Board for Industrial and Financial Reconstruction and their appeal has been registered.

The Ex-Directors further say that there is already an order restraining the company from disposing of and/or alienating in any manner any fixed asset of the company without the consent of the Board.

The secured creditors have appeared and submitted that the real intention of those intervenors are to stall the sale proceedings and there is no impediment on part of the company court to proceed with the sale of the fixed asset of the company despite the fact that the company has been registered before the BIFR.

The secured creditors have placed before the court the provisions contained in section 41 of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 to contend that if step has already been taken for recovery of the secured debts under the said Act, the proceedings under the Sick Industrial Companies (Special Provisions) Act, 1985 automatically abates.

This Court feels that the documents relating to a proceeding pending before the BIFR should be brought by the intervenors by filing an affidavit.

Let such affidavit be filed within seven days from date.

Rejoinder, if any, be filed by the secured creditors within three days thereafter.

Let this matter be listed on 7th October, 2013.

The Official Liquidator is directed to afford the inspection to the intending purchaser brought by one of the secured creditors in the meantime.

(HARISH TANDON, J.) ssaha AR(CR)