

Appellant Vs. Respondent

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Court : Kolkata

Decided On : Jul-28-2014

Judge : Nadira Patherya

Appellant : Appellant

Respondent : Respondent

Judgement :

ORDER

SHEET CA NO.654 OF 2007 CP NO.553 OF 1999 IN THE HIGH COURT AT CALCUTTA Original Jurisdiction ORIGINAL SIDE IN THE MATTER OF : BHARAT MARGARINE LTD.(IN LIQN) AND SAS INVESTMENTS FIDUCIARY LTD.AND THE OFFICIAL LIQUIDATOR, HIGH COURT, CALCUTTA BEFORE: The Hon'ble JUSTICE PATHERYA Date : 28th July, 2014.

Mr.Ranjan Bachwat, Sr.Advocate, Mr.Deepnath Roy Chowdhury, Mr.S.Roychowdhury Advocates.for contributories.

Mr.S.S.

Kolay, Advocates for WBSEB.

Mr.B.Mohanty, Mrs.Ruma Sikdar, Advcatesfor Official Liquidator The Court :-This day the licensing company has appeared through counsel.

It is submitted that a sum of Rs.3,35,900/- is due and payable on account of arrears by the company (in liquidation).Accordingly, let the bill evidencing the period for which such payment is to be made be sent by the counsel for the licensing company to the office of the Official Liquidator.

Counsel for the contributories of the company (in liquidation) submits that TS No.338 of 2014 has been filed before the 6th Civil Judge, Junior Division, Alipore and in such suit an application has also filed under Order 39 of Rules 1 and 2 of the Code of Civil Procedure.

To the said application a deed of conveyance has been annexed of January, 2009 which admittedly has been executed after the order of winding up, which is dated 06.04.2005 and, in all probability, the said deed of conveyance will be barred under Section 536 of the Companies Act.

It appears that the plaintiff in the Alipore suit has not filed the proceeding against the company (in liquidation) through the Official Liquidator.

The said position of the company being the defendant No.1 in TS No.338 of 2014 be informed by the Official Liquidator to the learned Bench 2 P.M.Mr.R.S.De, Adv.for WBIDC In spite of notice none had appeared on behalf of WBIDC when the matter was called on at the fiRs.call this day.

Therefore the matter was fixed at 2 P.M.when WBIDC is represented through counsel and it is submitted that certain letters written by the advocate of the plaintiff in T.S.338 of 2014 was brought to the notice of the Court in July, 2014.

The said letters are of April and May, 2011.

To ascertain whether any reply had been given to the said letters by WBIDC, counsel maintains silence.

Probably he is not aware of any reply nor has he taken any instruction in the matter.

To ascertain therefore the status of the letters of April and May, 2011 the Manager of the WBIDC is asked to be present in Court personally this day at 4 P.M.By order

dated 21st April, 2014 monies were to be deposited by the contributories by 31st July and 5th August, 2014 to WBIDC.

In view of the suit filed by one Ashok Mondal before the Alipore Court, no purpose would be served in depositing sums with WBIDC as in spite of making such payment the contributories would never get possession of the land but would have to litigate for the same.

This was not postulated when the order dated 21st April, 2014 was passed.

In fact WBIDC did not bring the letters of 2011 to the notice of the court on the date when the order was passed in April, 2014 and this if not suppression then what would amount to suppression.

Accordingly, monies which are to be deposited by the contributories in compliance of order dated 21st April, 2014 be kept in a fixed deposit with State Bank of India, Main Branch, which according to Counsel for WBIDC is its banker, on the date on which such payment is to be made to WBIDC.

Matter to appear in the list on 30th July, 2014 at 10.30 A.M. under the heading For Orders.

Certified copy of this order, if applied for, be supplied to the parties subject to compliance with all requisite formalities.

(PATHERYA, J.) nm/TR/sb

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