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**In Re: Sirohi Cements Ltd.**

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**SooperKanoon Citation** : sooperkanoon.com/754510

**Court** : Rajasthan

**Decided On :** Nov-03-1995

**Reported in** : [1998]94CompCas769(Raj)

**Judge** : V.K. Singhal, J.

**Acts** : Companies Act, 1956 - Sections 446 and 446(2)

**Appeal No.** : S.B. Company Petition No. 6 of 1995 in Company Application No. 69 of 1995

**Appellant** : In Re: Sirohi Cements Ltd.

**Advocate for Def.** : Paras Sharma, Adv.; N.B. Mathur, Adv.

**Advocate for Pet/Ap.** : R.K. Garg and; J.K. Singhi, Advs.

**Judgement** :

**V.K. Singhal, J.**

1. Both the aforeaid applications are being disposed of by this common order.

2. An application under Section 446(2) of the Companies Act has been made by RFC and RIICO to remain outside the liquidation proceedings. In this matter a reference was received from the Board for Industrial and Financial Reconstruction under Section 20 of the Sick Industrial Companies (Special Provisions) Act, 1985.

The possession of the unit has beentaken over by the RIICO on March 10, 1995. The dues of the RIICO are stated to be to the tune of Rs. 2.09 crores as on October 15, 1995. The RFC has stated that the dues are Rs. 82.52 lakhs as on October 1, 1995,

3. Besides this, the SBB] is also one of the creditors. The claim of the workmen is also to be taken into consideration by the official liquidator,

4. The arguments of learned counsel for the parties have been heard. Learned counsel for the applicant placed reliance on the decision in Central Bank of India v. Elmot Engineering Company [1994] 81 Comp Cas 13 (SC) ; [1994] 4 SCC 159 wherein it Was observed that the object of Section 4,46 is to safeguard the assets of 'the company in winding up against wasteful or expensive litigation as far as matters which could be expedi-tiously and cheaply decided by the company court are concerned.

5. Learned counsel for the official liquidator has brought to the notice of this court that in SLP (Civil) No. 18199 of 1993 with SLP (Civil) No. 7338 of 1994 the apex court on July 14, 1994, directed that it would be appropriate that the Rajasthan State Financial Corporation should sell the property acting jointly with the official liquidator under the supervision and in accordance with the directions of the company judge of the High Court and the sale proceeds be deposited in the court and then distributed in accordance with the directions of the learned company judge.

6. I have considered over the matter. In view of the order passed by the apex court it is directed that the RIICO and RFC shall remain out of winding up proceedings subject to submission of their claims before the official liquidator within one month from today. The RIICO would take appropriate steps for sale by advertisement immediately. The sale proceedings would be conducted in consultation with the official liquidator who would be informed of each date of proceedings. The sale would be subject to confirmation by this court, The final order with regard to total liability and other points would be passed after the sale proceedings are concluded. The amount, if any, realised would be kept by the RIICO in a separate account for which appropriate orders will be passed subsequently,

7. The applications stand disposed of accordingly.

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