

Official Liquidator Vs. Vaidya Narayan Prasad Sharma

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SooperKanoon Citation : sooperkanoon.com/769517

Court : Rajasthan

Decided On : May-05-2006

Reported in : [2006(110)FLR1208]; [2007]75SCL168(Raj); 2006(3)WLC540

Judge : Shiv Kumar Sharma, J.

Appellant : Official Liquidator

Respondent : Vaidya Narayan Prasad Sharma

Disposition : Application dismissed

Judgement :

ORDER

Shiv Kumar Sharma, J.

1. A direction has been sought by the applicant, who was appointed as Provisional Liquidator in Company Petition No. 4/95 on 12-1-1996, in the name of the respondent to hand over the balance agricultural land to the applicant Official Liquidator and also to make payment of damages. It is averred in the application by the Official Liquidator that Rajasthan Financial Corporation had taken the possession of the unit of the company situated at Khandela on 6-2-1988 for recovery of its dues. The said unit was sold to the respondent vide agreement, dated 1, 1989. As per statement of affairs filed by Director Subhash Chand Jain, company had two types of land measuring 13.25 bighas at Khandela out of which

20,000 Sq. Yards land was converted for industrial purposes. The remaining agricultural land is situated towards the north of the unit. The company had mortgaged the aforesaid unit along with aforesaid 20,000 Sq. Yards only to Rajasthan Financial Corporation which was sold by Rajasthan Financial Corporation to the respondent.

2. The respondent in the reply pleaded that Subhash Chand was never a director of the company. The land other than 20,000 Sq. Yards, belong to Amar Kishore, Nand Kishore and others initially which was later on came in possession and cultivation of the respondent. Rent receipts have been filed in support of the submission. It is also stated that the unit Khandela Woollen Mill Ltd. had 20,000 Sq. Yards land only which was auctioned by Rajasthan Financial Corporation and was sold to the respondent.

3. I have heard Learned Counsel for the parties and perused the material on record.

4. The disputed questions of fact cannot be gone into by this Court under Section 456 of the Companies Act. The applicant in my opinion should approach in such a situation to the District Magistrate, Sikar under Sub-section (1A) of Section 456 of the Companies Act.

5. The application stands dismissed with the above observations.