

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO. 6541 OF 2016
[@SPECIAL LEAVE PETITION (C) NO. 11159 OF 2011]

JAWAHARLAL

Appellant(s)

VERSUS

OFFICIAL LIQUIDATOR, H.C. OF KERALA & ORS.

Respondent(s)

J U D G M E N T

KURIAN, J.

1. Leave granted.

2. The appellant has approached this Court, aggrieved by the impugned Judgment dated 27.10.2010 passed by the High Court of Kerala at Ernakulam in Company Appeal No. 11 of 2010.

3. Though the case has a chequered history, we do not think it necessary to go into the factual matrix, in the nature of the developments which have taken place during the pendency of this appeal. Pursuant to the impugned Judgment passed by the High Court, the appellant was sought to be dispossessed and that is how, he is before this Court.

4. On 19.01.2015, this Court passed the following order:-

"We have heard learned counsel for the parties and noted that the dues of Canara Bank as well as workers is more than Rs. 8,00,00,000/- (Rupees eight crores only).

The proposals that have been given to this Court do not exceed Rs. 6.5 crores.

Under the circumstances, the appropriate course is to auction all the properties.

Necessary steps may be taken in this regard immediately and the auction process be completed within eight weeks.

List thereafter."

5. Thereafter, on 13.04.2015, this Court, taking note of the statements made on behalf of the appellant, passed the following order :-

"Learned counsel for the official liquidator says that the auction has been conducted and three bids were received.

Learned counsel says that he would like to file a status report. Further, he says that the petitioner was the second highest bidder and has moved the Company Court to

increase the bid amount.

Learned counsel appearing on behalf of the petitioner says that since earlier an offer of Rs. 6.5 crores was made in this Court, his client is ready to make the deposit in the Registry of this Court without prejudice to the rights and contentions of the parties.

Learned counsel for the highest bidder is present in Court and would like to file an application for appropriate directions.

Status report may be filed within four weeks from today and the deposit be made by the petitioner within six weeks from today.

List the matter in July, 2015."

6. In the meanwhile, the learned counsel appearing for the Official Liquidator submits that the entire liability of the Company has been wiped out by proceeding against other assets of the Company. After impleading the 17th Respondent - Mr. D. Pradap on 09.05.2016, this Court passed the following order :-

"The application for intervention is allowed.

The learned counsel for the intervenor - D. Pradap submits that he had originally participated in the auction conducted by

the Official Liquidator and he was the highest bidder.

Be that as it may, in view of the subsequent developments, we made a suggestion in court as to whether he is prepared to go beyond Rs. 7 crores, which was offered by the petitioner. The learned counsel for the intervenor has submitted that he is prepared to deposit an amount of Rs. 7.30 crores (Rupees Seven Crores and Thirty Lakhs).

It is submitted that he has already deposited Rs. 30 Lakhs before the High Court. It is further submitted that the remaining amount of Rs. 7 crores shall be deposited before the High Court by 06.07.2016. The undertaking is recorded.

Post on 14.07.2016."

7. We are informed today that the 17th Respondent has deposited the said amount of Rs. 7 crores before the High Court, in addition to Rs. 30 Lakhs deposited before the Official Liquidator when he participated in the auction.

8. Today, when the matter was taken up, the appellant has submitted that he is prepared to raise the offer and by stages, finally it has come up to Rs.8.70 crores. The learned counsel for the appellant is still prepared to go beyond that, once the mind of the other side is known.

9. Having regard to what has transpired in the Court, when the case was taken up on 09.05.2016, we gave one chance to the 17th Respondent as to whether he is prepared to go beyond Rs. 8.70 crores. It is submitted before this Court that they will pay Rs. 8.75 crores, to have a full and final settlement of the whole issue.

10. Now that the 17th Respondent has submitted that he is prepared to deposit Rs. 8.75 Crores, having regard to the entire background of the hearing before this Court, we are of the view that the matter should end there.

11. At the same time, we are also aware of the fact that the appellant had made a deposit before this Court pursuant to orders of this Court.

12. In our view, the interest of justice would be met in case the amount deposited by the appellant is directed to be returned along with the accrued interest

and he is also compensated appropriately, which we fix at Rs. 50 Lakhs. Hence, it is directed that the appellant will be entitled to get the deposit with interest refunded and also an additional amount of Rs.50 Lakhs (Rupees Fifty Lakhs), out of the deposit made by the 17th Respondent. The 17th Respondent is directed to deposit the balance of his offer of Rs. 8.75 crores within six weeks from today before the High Court and if not, the appellant will be entitled to have the offer settled in his favour for his offer of Rs. 8.70 crores.

13. On the deposit made by the 17th Respondent, the Registry will make the payment of Rs. 50 Lakhs to the appellant and the remaining amount along with accrued interest will be transferred to the Official Liquidator. The Official Liquidator will thereafter take steps to transfer the property in favour of the 17th Respondent.

14. The learned counsel for the Canara Bank - Respondent No. 15 submits that they have a decree against Respondent No. 16 - Company, which is being wound up. If there is such a decree, the learned counsel appearing for the Official Liquidator submits that the same can be looked into and proper action can be taken for satisfying the decree before the assets

are distributed.

15. For any of the remaining issues, it will be open to both the parties to approach the High Court in the Company Petition.

16. With the above observations and directions, the appeal is disposed of.

No costs.

.....J.

[KURIAN JOSEPH]

.....J.

[ROHINTON FALI NARIMAN]

New Delhi;
JULY 14, 2016.

JUDGMENT