(2010) 06 JH CK 0006

In the Jharkhand High Court

Board for Industrial and Financial Reconstruction APPELLANT

Vs

Raj Hans Steel Limited RESPONDENT

Date of Decision : 25-06-2010

Acts Referred:

Citation : (2010) 06 JH CK 0006

Hon'ble Judges : R.K. Merathia, J

Bench : Single Bench

Judgement

R.K. Merathia, J.

I.A. No. 1054 of 2010:

1. According to the applicant it has advanced loan to the company under liquidation sometimes in the year 1998.

Mr. Umesh Prasad Singh, learned senior Counsel appearing for the ex-management submitted that no such loan is reflected in the books of the accounts of the company under liquidation and at best if the applicant has got any claim it can raise it before the Official Liquidator.

Heard.

In the circumstances, this interlocutory application is rejected with a liberty to the applicant to raise claim before the Official Liquidator, if the same is maintainable.

I.A. No. 1054 of 2010 stands disposed of.

I.A. Nos. 30, 1039, 2021 of 2010 and I.A. No. 746 of 2010:

In I.A. Nos. 30, 1039 and 2021 of 2010, have been filed by the Ex-Director of the management of the company under liquidation - Mr. Rajiv Sachdeva, or stay of the winding up proceeding and for sanctioning the revival package.

I.A. No. 746 of 2010 has been filed on behalf of Anjaney Ferro Alloys Limited (hereinafter referred to as ''AFAL'').

Heard the parties.

2. Mr. Umesh Prasad Singh, learned senior Counsel appearing for Mr. Rajiv Sachdeva, ex-director submitted that Mr. Sachdeva has been substituted in place of the secured creditors by order dated 21.5.2010.

He further submitted that it is for the management of the company to decide how to run the company in the best interest of shareholders, and that AFAL has; got no locus standi to object to the sanction of the revival package, as AFAI was simply one of the bidders. He further submitted that Mr. Sachdeva is ready to negotiate and settle the dues and the value of share with BSCICO, and also the dues of the excise department about which a case is pending.

3. Mr. A.K. Das, appearing for BSCICO submitted that if the ex-management settles the said matters, BSCICO has got no objection.

4. On the other hand, Mr. Rajiv Ranjan, appearing for the AFAL submitted that this case is pending in this Court since 1999 and for about 10 years, ex-management of the company under liquidation could not revive the industry but only after the bids were offered pursuant to the sale notice published in this case by AFAL and M/s. Diversified Vyapar Pvt. Ltd. (hereinafter referred to as ''DVPL''), a back door method has been adopted by DVPL for acquiring the company under liquidation which will be clear from the revival package itself, and that this has caused serious prejudice to AFAL, the other bidder.

5. In this case, persuant to the sale notice published, AFAL and DVPL offered their bids. But, the sale/winding up proceeding was stayed on the request of ex-management on one or other ground. In the meantime, this revival package has been submitted by the ex-management which clearly shows that DVPL is on the back of the - Company under Liquidation. DVPL has provided finance for settling/ clearing the dues of the Bank and BSFC. The revival package is based on the finance of DVPL It is true that the ex-management could arrange the resources from any party, but it cannot be overlooked that DVPL was one of the bidder, and therefore, it cannot be said that AFAL, the other bidder has got no locus standi to object to the revival package. Similarly, the contention of the AFAL that DVPL is trying to acquire the company through back door method, cannot be ignored. It is also true that revival should be the first option for this Court. But it appears that in the garb of revival, DVPL is seeking to purchase the company, after offering the bid to purchase, in this case.

In the circumstances, I am not inclined to sanction the revival package and this Court wants to find out the best offer for purchase of the company.

Accordingly, it is ordered that this winding up proceeding will proceed. The Official Liquidator will make fresh publication for sale in terms of order dated 4.12.2009 read with 11.12.2009. The bid will be opened in Court on 13th August 2010.

All these I.As. stand disposed of.

On the request of Mr. Umesh Prasad Singh, learned Counsel appearing for Mr. Sachdeva it is recorded that he objects to this order.

Let a copy of the order be handed over to the Official liquidator.