(2002) 01 SC CK 0111

In the Supreme Court Of India

Case No : Special Leave Petition (Civil) 8427 of 2000 and Transfer Petition (Civil) 38 and 41 of 2001

D.C.M. Financial Services Ltd. APPELLANT

Vs

Neel Kamal Plastics Ltd. and Another RESPONDENT

Date of Decision : 31-01-2002

Acts Referred:
Civil Procedure Code, 1908 (CPC) — Order 21 Rule 94

Citation : AIR 2002 SC 850 : (2002) AIRSCW 520 : (2002) 1 BLJR 778 : (2002) 2 JT 21 : (2002) 1 SCALE 532 : (2002) 1 Supreme 456

Hon'ble Judges : V. N. Khare, J;N. Santosh Hedge, J

Bench : Division Bench

Advocate : Anil B. Divan, Ranjit Kumar, A.S. Chandhiok, Indira Jaising, Rahul Srivastava, Chanchal Kumar Ganguli, D.S. Narula, Shaju Francis, Ashish Chopra, Manmeet Arora, Vandana Miglani, Kavita Wadie, Maninder Singh, Mandeep Singh Vinaik, Hardeep Singh Anand Vibhu Bakhru, Pooja M. Saigal, P.N. Puri, P.H. Parekh, Sameer Parekh, E.R. Kumar, Deepa Das, Rajan Narain, Neera Gupta, D.S. Mehra, Dhruv Mehta, Anu Mehta, Rajiv Shakdhar, V. Mohana, Kavita Vinod, V.K. Dhar, L.R. Singh, Sanjeev Bhandari, Sumant Batra, Manjula Gupta, Pradeep Dewan, Pramod B. Agarwala, Praveena Gautam, Yakesh Anand and Davendra Singh, for the Appellant;

Final Decision : Allowed

Judgement

Santosh Hegde, J.—The above transfer petitions were entertained by this Court for a limited purpose of making available to the Company in question the advantage of the scheme notified by the Reserve Bank of India for Non Performing Assets (NPA) Scheme, which scheme, if availed of would give the Company a substantial financial benefit which benefit in turn could be made available for distribution amongst the various creditors of the Company. To fulfil the above object with the consent of the parties and also in consonance with the order of Madras High Court, by an order of this Court, we had directed the sale of a part of the property belonging to Pure Drinks (Calcutta) Ltd. situated at No. 36, Mount Road, Guindy, Madras to be sold by public advertisement. Pursuant to which ITC Ltd. offered the highest bid which was accepted by this Court with the consent of the parties and ITC have deposited the entire consideration amount accepted by us. By our earlier orders, we had directed the Registrar General of this Court to execute the necessary Conveyance Deed to see that the right, title and interest in the said portion of the property is conveyed free from all encumbrances to the ITC. Today on behalf of the ITC, it is submitted that the terms of the draft sale certificate with certain modifications as mutually agreed between the ITC and the Registrar General is acceptable to them. In the said view of the matter, we confirm the said sale in favour of the ITC of the schedule properties mentioned in the sale certificate and we direct the Registrar General of this Court to issue the sale certificate as contemplated under Rule 94 of Order 21 CPC. The Registrar General is also directed to take such steps as is necessary to make the sale in question complete in all sense. The expenses to be incurred in registering the sale certificate shall be borne by the ITC. If, however, ITC desires that the sale deed in respect of the said property is to be executed by M/s. Pure Drinks (Calcutta) Ltd., the three persons, named below, who claim interest in the said property shall execute the sale deed within a period of three months from today. In that case also all expenses of Stamp duty and Registration fees of the sale deed shall also be borne by the ITC.

2. It is submitted on behalf of the parties that a sum of Rs. 13,50,00,000/- (Rupees thirteen crores & fifty lacs) only (approx.) is required to be paid to the income tax authorities towards the capital gain tax payable on the sale of the above- mentioned property. Out of the money in deposit with the Registrar General, we direct that a bank draft for a sum of Rs. 13,50,00,000/- shall be issued in the name of Deputy Commissioner, income tax Circle, Patiala, Punjab and an appropriate receipt be obtained from the said authorities. It shall be made clear to the said authority that the amount in question is being paid on account subject to adjustment in regard to the capital gains tax payable on the sale of above said property.

3. We further direct that a sum of Rs. 6,37,899/- (Rupees six lacs thirty seven thousand eight hundred ninety nine) only to be paid by the Registrar General through a bank draft to C.J. International Hotel Ltd. New Delhi towards the advertisement charges incurred by them in the sale of the above-mentioned property and the same shall be treated as being paid towards full and final settlement of that claim.

4. After the payment of above said monies to the income tax authorities and C.J. International Hotel, the Registrar General shall open an account in the name of Pure Drinks (Calcutta) Ltd. in the UCO Bank, Supreme Court Branch which account shall be made operable jointly by (i) Mrs. Harjeet Kaur W/o late Charanjeet Singh (ii) Mr. Ajit Singh (iii) Mr. Satwant Singh, all residing at 9, Friends Colony West, New Delhi. If subsequently it is found that still certain dues are payable towards capital gain tax by M/s. Pure Drinks (Calcutta) Ltd., the said amount shall be paid out of the said deposit.

5. It is pointed out to us that there are certain liabilities of Pure Drinks (Calcutta) Ltd. towards its workman and it is just and necessary that the said dues be paid from out of the amount in deposit. We do not think at this stage we should entertain this request but it is open to the three parties, named above, to settle the said claim by mutual understanding since the same will be in the interest of the Company concerned.

6. In I.A. No. 13/2000 Canara Bank has made a request for return of certain documents of title deposited by them with the Registrar General. It is their submission that some of the title deeds kept in deposit pertains to properties which have been mortgaged by the Company concerned to the bank and the mortgage still subsist, therefore, they be returned to the bank. The bank shall give the list of these documents to the Registrar General and on receipt of the same, those documents will be returned to the bank.

7. All other claims made by way of various applications with which we have not specifically dealt hitherto, as well as various impleading applications which have not been allowed till now will stand disposed of without any expression of opinion by us and the petitioners-claimants therein are directed to seek their remedy in other appropriate proceedings.

8. At this stage, the petitioner in SLP (C) No. 8427/2000 submitted that the main petition, from which this SLP arises, has since been disposed of by the High Court, therefore, this petition has become infructuous. On the said submission the above SLP is dismissed as having become infructuous.

9. Mr. A.S. Chandhok, learned senior counsel sought permission to withdraw I.P. 38-41/2001 with liberty to file fresh petitions on the ground that in view of certain fresh cause of action, it has become necessary to file fresh petitions. We are not inclined to grant any such liberty, so far as these transfer petitions are concerned. We make it clear that any observation made in these proceedings or orders passed either in regard to the status of the parties or in regard to their claims will not be treated as a decision given by us on merits and such observations and findings, if any, will not be construed as having concluded the rights of the parties.

10. With the above observations, these petitions as well as applications are disposed of.