

(2011) 03 MAD CK 0191
In the Madras High Court
Case No : C.P. No. 91 of 2010

In Re: Park Town Benefit Fund Limited

Date of Decision : 14-03-2011

Acts Referred:

Companies Act, 1956 — Section 235, 236, 237, 238, 239

Citation : (2011) 03 MAD CK 0191

Hon'ble Judges : Vinod K. Sharma, J

Bench : Single Bench

Advocate : Shankar, Associates R. Uma Shankar, for the Appellant; P. Suresh, Addl. Central Govt. Standing Counsel, for the Respondent

Judgement

Vinod K. Sharma, J.—M/s. Park Town Benefit Fund Limited (hereinafter referred to as the "Company") has filed this application for

sanctioning the scheme of arrangement between company and its unsecured creditors, including Depositors, Due Slip and Cash Warrant Holders

as per scheme of arrangement, annexed with the typeset of papers as Annexure-D (Pg.106).

2. The Petitioner company was incorporated in the year 1985 as a Public Limited Company with capital of Rs. 5,00,000/- (Rupees Five Lakhs

only). The company was engaged in the business of accepting deposits from the shareholders, members and the deposits mobilized from the

shareholder members were deployed against the mortgage of immovable properties in accordance with the guidelines prescribed by the

Department of Company Affairs. In spite of financial difficulties faced by the Petitioner company, till the year 2002 - 2003, the company promptly

honored the interest commitments of their depositors and there were no complaints from single depositor with regard to payment of interest on

deposits.

3. The Petitioner company took sincere efforts to collect loan from the willful defaulters and settled all the depositors uniformly. However, the

borrowers are negotiating for waiver of interest on the loan, on the plea that loss was suffered by them in the business. Keeping in view the genuine

request, the company was forced to allow huge discount on the loan amount, and it could collect only a part of the arrears, as one time settlement.

Because of the difficulties faced by the company, out of total deposits of Rs. 170 crores in the year 1999, about 158 crores were repaid to 92.5%

of the depositors.

4. The company had to face multitude legal proceedings before various forum, filed by the depositors, on the fear that the company would not be

in position to repay all the depositors. The company has a strong asset base to repay all the depositors. The Special Officer Thiru K. Vadivelu,

I.P.S. (I.G. Retired), was appointed as Special Officer by the Central Government to closely monitor recoveries and the repayment of deposits by

the company. The object and purpose of appointment of Special Officer was to monitor, supervise and safeguard the interest of all the depositors,

though it was being effectively done by the company.

5. The company filed W.P. No. 35512 of 2004, praying for a direction to the Special Officer to frame a scheme of repayment to all the depositors

without any discrimination in an equitable manner.

6. This Court issued ad-interim direction, and the stay granted was made absolute after hearing the parties. The Petitioner company's deposit

position for the period 01.01.1999 to 31.07.2007 is as under:

1. As on 01.01.1999 - Rs. 170.00 Crores
2. As on 31.03.2000 - Rs. 150.00 Crores
3. As on 31.03.2001 - Rs. 117.12 Crores
4. As on 31.03.2002 - Rs. 80.50 Crores
5. As on 31.03.2003 - Rs. 60.34 Crores
6. As on 31.03.2004 - Rs. 40.34 Crores
7. As on 31.03.2005 - Rs. 25.00 Crores
8. As on 31.03.2006 - Rs. 17.97 Crores
9. As on 31.03.2007 - Rs. 13.81 Crores

10. As on 31.07.2007 - Rs. 12.71 Crores

11. As on 31.03.2010 - Rs. 6.50 Crores

Against this, total receivable dues amount of Rs. 15.00 Crores from 71 borrowers, based on minimum interest is recoverable, therefore, the company is in a position to repay all the depositors within 36 months.

7. The Petitioner company, therefore, is viable and solvent company, as with the passage of time, the total liability of the company has come down from Rs. 170.00 Crores in 1999 to about Rs. 12.71 Crores on 31.07.2007.

8. It was for this reason stated herein above, that the scheme was

9. The company formulated the scheme for repayment to all the directed to be prepared by the Special Officer.

depositors uniformly, indiscriminately and in an equitable manner. The scheme was submitted for approval with the Regional Director, Department of Company Affairs, being the regulatory authority of ""Nidhis"" companies, to which the Petitioner belongs.

10. The Regional Director has given no objection for approval of scheme by the Company Law Board or any other appropriate forum. The

Federation of the Investors Association has also given consent to file an affidavit in support in this Hon"ble High Court, to implement the Scheme of Repayment to all the depositors.

11. By an order made in C.A. No. 2629 of 2007 in C.P. No. 194 of 2006, this Hon"ble Court directed the Petitioner to convene meeting of the unsecured creditors of the company, including all the depositors, Due Slip and Cash Warrant Holders for the purpose of considering and if thought fit, approving with or without modifying the scheme.

12. Notice of meeting was published in issue of ""Hindu Business Line"" and Tamil Daily ""Dinamalar"" on 31.10.2007. Out of the creditors present, 580 voted in favour of the scheme and 120 against, whereas 100 members suggested some modifications in the Scheme. The scheme shows that the sanctioning of the scheme will be for the benefit of all the unsecured creditors of the company, including Due Slip and Cash Warrant Holders and the company.

13. The report of the Regional Director, Ministry of Corporate Affairs was called in terms of the provisions of Section 394A of the Companies

Act, 1956. The report of the Regional Director reads as under:

I, B.K. Bansal, S/o. Shri Inder Sain Bansal, Indian, Hindu, aged about 53 years having my office at Shastri Bhavan, Vth Floor, 26, Haddows

Road, Chennai 600 006, do hereby solemnly affirm and sincerely state as follows:

1. I am the Regional Director, Southern Region, Ministry of Corporate Affairs, Chennai and I am authorized to file this affidavit on behalf of the

Central Government for due consideration of this Hon"ble Court.

2. I respectfully submit that the Regional Director, Southern Region, Ministry of Corporate Affairs, Chennai, had been served with copy of the

petition pursuant to Section 394A of the Companies Act, 1956 in C.P. No. 91 of 2010 and the same has been examined in detail.

3. I submit that the Petitioner company has its registered office at Chennai within the jurisdiction of this Hon"ble Court.

14. As per the Chairman"s report, more than 3/4th of valued creditors have agreed to the scheme of arrangement. It is also reported that there are

no investigation proceedings in relation to the company under Sections 235 to 239 of the Companies Act, 1956.

15. In view of the facts stated herein above, the scheme of arrangement is sanctioned between the company and its unsecured creditors, including

Depositors, Due Slip and Cash Warrant Holders.

16. The company is directed to carry out arrangement scheme approved.

17. In the event of arrangement being not worked out, it will be open to the persons interested to move this Court for winding up of the company.

18. The remuneration to the Additional Central Government standing Counsel is fixed at Rs. 2,500/- to be paid by the petitioner company.