

(2021) 03 JH CK 0189
In the Jharkhand High Court
Case No : C.P. No. 02 Of 1996 (R)

Kumardhubi Metal Casting & Engineering Ltd.

APPELLANT

Vs

Kumardhubi Karamchari Congress & Ors

RESPONDENT

Date of Decision : 26-03-2021

Acts Referred:

Citation : (2021) 03 JH CK 0189

Hon'ble Judges : Aparesh Kumar Singh, J

Bench : Single Bench

Advocate : H.K. Mehta, A. Allam, M.M. Pal, Richa Sanchita, Anil Kumar Singh, Sumeet Gadodia, Lukesh Kumar, Abhay Prakash

Final Decision : Dismissed

Judgement

A report has been submitted by the official liquidator on 24th March 2021. Learned counsel for the official liquidator Mr. H.K. Mehta submits that the Ministry has clarified that no specific guidelines in this regard have been laid down for guidance of the official liquidator in respect of the process to be adopted in case of sole bid. It is up to the judicial discretion of the Company Court.

Thereafter, the report refers to the sequence of dates in relation to the instant auction process. It is stated at paragraph-8 of the report that two parties have conveyed their intentions to participate in the bid proceedings. They have also filed intervention applications before this Court for permission to purchase bid papers. They are also ready to comply with the conditions of the bid and submit the earnest money. Official liquidator has requested that the intervenors may be allowed to participate in the bid to make it more competitive and transparent. Prospective bidders may be directed to deposit / transfer EMD in the account of the official liquidator. A suitable date for auction may be fixed accordingly.

Intervention Application No.1885/2021 has been preferred by one M/s S.K.G. Sugar Ltd., a company registered under the Companies Act 1956, having

registered office at Hathua, District Gopalganj (Bihar). Another Intervention Application No.1894/2021 has been preferred by one M/s S.S.G. Renew-Tech Pvt. Ltd., a company registered under the Companies Act 1956, having registered office at Pune, Maharashtra.

Learned counsel for the intervenors Mr. Lukesh Kumar and Mr. Abhay Prakash submit that the intervenor companies want to purchase the property under auction. They are ready and willing to make payment of EMD amount as fixed by this Court for participating in this auction bid. The intervenor company could know about the ongoing auction proceedings at a belated stage. It is submitted that due to restrictions in travel during COVID-19, they could not visit the premises of the petitioner company to evaluate the assets of the property. It is prayed by the intervenors that they may be allowed to participate in the bidding process. They are ready and willing to abide by the terms and conditions prescribed under the law and as may be stipulated by this Court. They may also be permitted to inspect the assets of the company.

On being specifically asked, learned counsel for the intervenors and also for the other sole bidder Mr. Sumeet Gadodia have submitted that these companies are ready to furnish the audited balance sheet and income tax return of the last three years before the official liquidator, if so directed.

Reference may be made to the order dated 18th December 2020 whereunder the present auction process of the assets of the companies under liquidation were initiated. This Court, on consideration of the facts and circumstances, has twice extended the cut-off date for acceptance of bids lastly up to 9th March 2021. However, by that date only sole bidder had purchased the bid papers and submitted his bid. However, two more companies have approached the Court through intervention applications for being permitted to participate in the bid. Be it indicated herein that as per the auction sale notice the reserve price is Rs.110.50 crores. The reserve price being substantially high, considering the assets of the company, participation of more bidders is likely to fetch competitive price of the assets under liquidation.

Having regard to the aforesaid circumstances, this Court is of the view that in order to have a fair competition and in order to provide a level playing field amongst all interested bidders, the cut-off date for purchase of bid papers and submission of bids needs to be extended. As such, the cut-off date for submission of bid is extended up to 7 th April 2021. Bid shall be opened before this Court on 9th April 2021. Learned official liquidator shall issue a corrigendum on the website of the Ministry of Corporate Affairs by tomorrow 27th March, 2021 to that effect so as to invite wider publicity and offer of more interested bidders. The sole bidder and the two intervenor companies shall submit the audited balance sheet and income tax return for the last three financial years also by the cut-off date. Any other interested bidder shall also be required to submit the same before the official liquidator apart from the bid documents.

I.A. No.1886/2021 is not pressed by learned counsel for the intervenor Mr. Abhay Prakash. It is, accordingly, dismissed as not pressed.

Let the matter be listed on 9th April 2021.