

(2020) 01 GUJ CK 0121

In the Gujarat High Court

Case No : R/Official Liquidator Report No. 4 Of 2020, 69 Of 2019

OL Of Aryoday Spg. And Wvg. Mills Co. LTD

APPELLANT

Vs

Manager

RESPONDENT

Date of Decision : 17-01-2020

Acts Referred:

Citation : (2020) 01 GUJ CK 0121

Hon'ble Judges : A.J.Desai, J

Bench : Single Bench

Advocate : KJ Brahmbhatt, DS Vasavada

Final Decision : Disposed Of

Judgement

A.J.Desai, J

1. The Official Liquidator has filed the present report seeking following direction in para (21) :-

"(A) In view of fact stated in para (06) to (16) of this report, this Hon'ble Court may be pleased to approve the action of the Asset Sale Committee to fix upset price and EMD for sale of freehold and leasehold land of the company in liquidation or fix any other amount as upset price and EMD which this Hon'ble Court may consider fit and proper for inviting offers for sale of freehold land and leasehold land of M/s. Aryoday Spg. & Wevg. Mill Co. Ltd., (in liquidation), from the prospective bidders.

(B) In view of fact stated in para (17) of this report, this Hon'ble Court may be pleased to approve the proposed sale schedule to sell the assets of M/s. Aryoday Spg. & Wevg. Mill Co. Ltd., (in liquidation) decided in the meeting of sale committee dated 22.10.2019.

(C) In view of fact stated in para (18) & (20) of this report, this Hon'ble Court may be pleased to permit the Official Liquidator to publish sale proclamation in all editions of daily Newspaper Viz. "Gujarat Samachar" , in Gujarati script in all

Gujarat Edition and "Times of India", English Script in Ahmedabad & Mumbai edition respectively and also webcast sale proclamation on website of Ministry of Corporate Affairs, Hon'ble High Court of Gujarat & State Bank of India or in any such Newspapers as may be directed by this Hon'ble Court.

(D) This Hon'ble Court may be pleased to permit the Official Liquidator to incur necessary advertisement expenses from Common Pool Account maintained by the Office of the Official Liquidator, since there is insufficient balance in the account of the company in liquidation subject to condition that same will be recouped out of the sale proceeds of assets of the company in liquidation on priority basis as liquidation expenses."

2. Heard, Ld. Advocate Ms. Kalpana Brahmbhatt for the Ld. Official Liquidator. She apprised that vide order dated 22.01.2019 passed in Official Liquidator's Report No. 146 of 2018 this Court was pleased to confirm sale of approximately 24,787 Sq. Mtrs., Freehold N.A. Land along-with civil construction thereon situated at Survey No.504, F. P. No.4/P, C.S. No.189/P Mouje (Saher Kotda), Tal. Asarwa (City East), Dist. & Sub-District. Ahmedabad in favour of M/s. Mufadal Developers Pvt. Ltd., for sale consideration of Rs. 4200 Crores on "As is where is whatever there is basis" and in the said order, this Court has also directed the Official Liquidator to carry out fresh Valuation of leasehold land of the company in liquidation.

3. However, M/s. Mufadal Developers Pvt. Ltd., committed default of making payment of Sale Consideration in compliance of the order dated 22.01.2019 passed by this Court. Hence, this Court vide order dated 12.07.2019 passed in OLR No. 69 of 2019, was pleased to cancel the sale of freehold land of the company in liquidation which was sold in favour of M/s. Mufadal Developers Pvt. Ltd., and imposed penalty of Rs.1.00 Lacs on M/s. Mufadal Developers Pvt. Ltd., and also directed the Official Liquidator to carry out fresh Valuation of freehold land of the company in liquidation.

4. In compliance of the aforesaid directions, the Official Liquidator appears to have sought valuation of freehold land and leasehold land of the company in liquidation from M/s. Pranav Parikh & Associates, Panel Valuer and on receipt of the valuation reports from the said Panel Valuer, the Official Liquidator placed the same in the meeting of the Asset Sale Committee dated 22.10.2019.

5. The members of the Asset Sale Committee have perused the both Valuation reports and observed as under:-

FREEHOLD LAND:-

Freehold land of the company in liquidation is situated at Survey No.504, T.P. No.16, F. P. No.4/P, C. S. No.189/P, Mouje (Saher Kotda) Tal. Asarwa (City East), Dist. & Sub.-Dist. Ahmedabad and out of total land of the company in liquidation. Land admeasuring 24,787.00 Sq. Mtrs., is freehold. In the said valuation report, it is also mentioned that there is encroachment over 3746.37.00 Sq. Mtrs. out of

24,787.00 Sq. Mtrs., of land which has been occupied by Residential of Chawl and at present only land admeasuring 21,040.00 Sq. Mtrs., open freehold land is available for sale. It is also observed that valuer has valued freehold land of the company in liquidation in following manner:-

TABLE "A" :-

Sr. No.

Particulars

Estimated Fair Market Value in Lakh (Rs.)

Realizable Value in Lakh (Rs.)

Distress value in Lakh (Rs)

Jantri Rate in Lakh (Rs.)

1

Freehold Land

4535.00

4005.00

3265.00

3718.00

2

Civil Construction

47.50

45.00

35.00

47.50

Total

4582.00

4050.00

3300.00

3765.00

LEASEHOLD LAND :-

The Valuer has mentioned that leasehold land admeasuring 26,342.00 Sq. Mtrs., and 1,748.00 Sq. Mtrs., of land out of total out of total area of 37086.00 Sq.

Mtrs., falls within Mill Premises of the company in liquidation and remaining 7,815.00 Sq. Mtrs., and 1,181.00 Sq. Mtrs., is covered by residential quarters / encroachment situated outside mill premises. The valuer has valued leasehold land of the company in liquidation in following manner:-

TABLE "B" :-

Sr. No.

Leasehold Land in FP & Area (Sq.Mtrs)

Estimated Fair Market Value in Lakh (Rs.)

Realizable Value in Lakh (Rs.)

Distress value in Lakh (Rs.

Jantri Rate in Lakh (Rs.)

[A]

Land

1

4/P : 26342.00

4741.55

4250.00

3400.00

5562.00

2

FP No. 06 : 1748.00

314.60

275.00

230.00

3

FP No. 10/P : 7815.00

1211.60

1075.00

875.00

4

FP No. 11 : 1181.00

183.05

160.00

135.00

Total

6450.00

5760.00

4640.00

5562.00

[B]

Civil Construction

61.40

50.00

45.00

55.00

Total

6511.00

5810.00

4685.00

5617.00

6. The members of the Assets Sale Committee is of the view that since there is encroachment / residential chawls over leasehold land bearing FP No.10/P and FP No.11 which outside mills premises, at present they are proposing for sale of leasehold land bearing FP No.4/P & FP No.06 consisting 26,342.00 Sq. Mtrs., & 1,748.00 Sq. Mtrs., of leasehold land respectively i.e. total 28,090 Sq. Mtrs., of leasehold land as well as 24,787.00 Sq. Mtrs., of freehold land [including encroachment / residential chawls over 3746.37 Sq. Mtrs. of land] i.e. total 52,877.00 Sq. Mtrs., which consists of Mill Premises and remaining leasehold land will be considered for sale after following due procedures as per the direction by this Court.

7. Ms. Kalpana Brahmabhatt, Ld. Advocate has apprised that Mr. Saiyad Jalaluddin Gulamshah Musarat lessor of leasehold land filed OJCA No.261 of 2019 for condonation of delay of 153 days to recall and / or set aside order dated 06.08.2018 passed by this Hon'ble Division Bench in O.J. Appeal No. 12 of 2016. The same is pending and meanwhile vide order dated 22.01.2019 passed in

Official Liquidator's Report No. 146 of 2018, the Hon'ble Court has already permitted the Official Liquidator to sell leasehold land of the company in liquidation. Hence, leasehold land of the company in liquidation can be sold.

8. Upon hearing Ld. Counsels appearing for respective parties and as per observations made herein above, on the basis of recommendation made by members of the Assets Sale Committee, the Official Liquidator will initiate proceedings of sale and permitted to fix upset price and EMDs in following manners:

Lot No

Description of properties

Upset Price (Rs)

EMD (Rs)

1

Approximately 24,787 Sq. mtrs. N.A. freehold land along with Civil construction [including encroachment /residential chawls over 3746.37 sq.mtrs of land] thereon situated at Survey No. 504/P, F.P.No.4, C.S.No. 189/P, T.P.No. 16, Mouje Shaher Kotda, Taluka Asarwa (City East), District & Sub District Ahmedabad.

40,50,00,000/-

4,05,00,000/--

2

Approximately 28,090 Sq. mtrs. N.A. leasehold land thereon situated at Survey No. 504/P and 505/1, F.P.No.4/P and F.P.No.6, T.P.No. 16, Mouje Shaher Kotda, Taluka Asarwa (City East), District & Sub District Ahmedabad.

45,25,00,000/--

4,52,50,000/--

3

Composite offer for lot No. 01 and 02 above (except records)

85,75,00,000/-

8,57,50,000/--

9. The Schedule programme for sale of the assets and properties of the company in liquidation is under under:

Sr.No.

Particulars

Date

1.

Issuance of sale proclamation in Newspaper

11.02.2020

2.

Issuance of Tender Forms to the Intending purchasers

12.02.2020

3.

Inspection to the intending purchasers

14.02.2020

4.

Last date of receipt of Tenders

28.02.2020

5.

Opening of Tenders and auction / inter-se-bidding before the Hon'ble Court

06.03.2020

10. With above direction, present report is accepted in terms of prayer prayed in Para - 21(A), (B), (C) and (D) and report stands disposed of accordingly.