(2004) 02 RAJ CK 0033

In the Rajasthan High Court

Case No : Company Application No. 159 of 2003 and Company Petition No. 14 of 1996

Rajasthan Financial Corpn. APPELLANT

Vs

Official Liquidator of Baldev Minerals (P.) Ltd. RESPONDENT

Date of Decision : 20-02-2004

Acts Referred:
Companies Act, 1956 — Section 446, 446(2)
State Financial Corporations Act, 1951 — Section 29

Citation : (2005) 4 BC 533 : (2005) 127 CompCas 28 : (2004) 54 SCL 430

Hon'ble Judges : S.K. Keshote, J

Bench : Single Bench

Advocate : Paras Sharma, for the Appellant; B.K. Sharma, for the Respondent

Judgement

S.K. Keshote, J.—Heard learned counsel for the parties and perused the entire record of the application, its enclosures and the reply thereto filed by the non-applicant.

2. This is an application u/s 446 of the Companies Act, 1956 and the prayer has been made therein by the applicant to allow it to remain out of winding-up proceedings.

3. The learned counsel for the non-applicant submits that he has no objection in case the applicant is permitted to remain out of winding-up proceedings. However, it is submitted that this permission may be granted subject to the conditions as mentioned in para No. 10 of the reply to the application.

4. The applicant is the secured creditor of the company (in liquidation). It has right to proceed against the company (in liquidation) u/s 29 of the State Financial Corporation Act, 1951. Otherwise also there may not be any difficulty to permit the applicant to remain out of winding-up proceedings. However, I am satisfied that a blanket and unconditional permission cannot be granted.

5. Accordingly this application succeeds and the same is allowed. The applicant

Rajasthan Financial Corporation is granted permission to remain out of the winding-up proceedings subject to the following conditions :

1. That the sale of the assets of the company (in liquidation) is to be affected only after it is valued by the registered valuer or by a committee of technical experts.

2. The applicant shall thereafter fix the upset price of the assets of the company (in liquidation).

3. The sale of the assets of the company (in liquidation) is to be undertaken or made after wide notice of invitation of tender/offers in National level as well as State level newspapers having wide circulation.

4. The sale of the assets of the company (in liquidation) shall be subject to the confirmation of the Court.

5. The sale proceedings received of sale of the assets of the company (in liquidation) are to be deposited with the Official Liquidator forthwith.

6. After confirmation of the sale of the assets of the company (in liquidation), the applicant may file its claim before the Official Liquidator and the Official Liquidator shall adjudicate upon the same in accordance with the law.

6. There shall be liberty to the applicant to apply to the Court for withdrawal of the amount or part thereof, of the sale proceeds of the assets of the company (in liquidation) which is to be deposited by it with the Official Liquidator.

7. The application accordingly stands disposed of.

