(2023) 08 DEL CK 0179

In the Delhi High Court

Case No : CO.PET. No. 188 Of 1999, CO.APPL. No. 1539 Of 2018, 409, 590 Of 2023, OLR No. 129 Of 2018, 143 Of 2019, 55 Of 2023

Re-In The Matter Of Continental Textiles Mills Ltd. APPELLANT

Vs

... RESPONDENT

Date of Decision : 17-08-2023

Acts Referred:

Citation : (2023) 08 DEL CK 0179

Hon'ble Judges : Prathiba M. Singh, J

Bench : Single Bench

Advocate : M L Sharma, Pavan Narang, Siddharth Shankar, Himanshu Sethi, Aishwarya Chhabra, Sunil Dalal, Amit Sahani, Sonali Tiwary, Manisha Saroha, Nikhil Beniwal, Navish Bhati, Mahabir Singh, Ruchi Sindhwani, Megha Bharara, Sandeep Sethi, Shiv Mangal Sharma, Shashank Khurana, Kanika Singhal, Shalini Singh, Abhishek Sharma, Ajay Digpaul, Keshav Ranjan

Judgement

Prathiba M. Singh, J

1. This hearing has been done through hybrid mode.

CO.APPL. 590/2023 (for delay)

2. This is an application for condoning 23 days delay in filing a reply in

3. Application is disposed of.

CO.APPL. 1539/2018

4. This is an application filed by the Applicant- Textile Labour Association, which serves as the representative union for the workmen previously employed in the company under liquidation-M/s. Continental Textile Mills to cancel the e-auction sale notice dated 8th June, 2023, published by the OL in respect of the property situated near Arvind Mills, Opposite Asarwa Railway Station, Naroda- Station Road, Mouja, Asarwa, Ahmedabad, Gujarat. The description of the property (hereinafter, 'subject property') is as follows:

• Lease hold Land:

F.P. No. 11/P (422, 424/A/2, 425/A, 426, 427/1,427/2,428/1,428/2, 428/3, 435/A, 436/A, 436/B and 664/2) ad measuring 1,02,701.69 Sq. Mtr .

• Freehold Land:

F.P. No. 11/P (423/B, 425/3/B and 433/A) ad-measuring 11 ,034.31 Sq.Mtr.

• Leasehold Land:

F.P. No. 24/P (433/A) ad-measuring 3,981.51 Sq. Mtr.

5. In view of the further proceedings in respect of the said e-auction notice, the present application has become infructuous and is accordingly disposed of.

OLR 129/2018, OLR 143/2019, OLR 55/2023

6. The above OLRs are taken on record.

CO.APPL. 409/2023

7. This is an application filed by Mr. Chander Verma one of the Ex-Directors of the company under liquidation - M/s Continental Textile Mills Ltd. The prayer in the application is as under:

"(A) To modify the Order dated 26.05.2023 passed by this Hon'ble Court, in OLR 55/2023, approving drafts of 'E-Auction Sale Notice' and 'Terms & Conditions of the Sale of properties' of Company (in Liquidation), to the extent being in consonance with the directions passed by the Hon'ble Supreme Court, vide the said Order dated 31.01.2013; and,

(B) To cancel the 'E-Auction Sale Notice dated 08.06.2023 'published by the Official Liquidator in various newspapers for sale of assets and properties of Company (in Liquidation); and,

(C) To cancel the E-Auction scheduled to be held on 28.06.2023; and

(D) To direct the Official Liquidator to publish fresh 'E-Auction Sale Notice', complying with the directions passed by the Hon'ble Supreme Court, vide the said Order dated 31.01.2013; and/or

(E) Any other or such further order(s) as this Hon'ble Court may deem fit and proper, may also be passed."

8. The brief background of the present petition is that an Official Liquidator ('OL') was appointed in respect of the company on 5th October, 2001. One of the main assets of the Company is a piece of land ad-measuring 29.09 acres (1,17,717.51 Sq. Mtr.), situated at Naroda- station road, Ahmedabad, i.e., the subject property. The property was initially auctioned on 1st February, 2007 for a sum of Rs. 41,05,08,000/-. However, the auction purchaser - M/s Suchit Pavitra (Saraspur) Industrial Co-operative Society, in the said auction had delayed

making the payment of the consideration amount. On this ground, the auction was set aside by the ld. Single Judge vide order dated 4th July 2011 in the matter titled 'In the matter of Continent Textile Mills' bearing Company Petition No. 188/1999 and the same was also upheld by the ld. Division Bench vide order dated 16th September 2011 in the matter titled 'In the matter of Continent Textile Mills' bearing Co. Appeal No. 60/2011.

9. The auction purchaser, who had delayed the payment of the auction amount, then approached the Supreme Court through SLP (Civil) No. 10881/2012 titled M/s Suchit Pavitra (Sarasur) Industrial Co-operative Society v. Official Liquidator & Ors. This SLP was disposed of vide order dated 31st January, 2013. The entire order is relevant, and is set out herein below:

"IA No.4 is dismissed as withdrawn with liberty to the applicants to seek their remedies as may be available in law. The controversy in this special leave petition relates to the auction sale of a piece of land situated in Ahmedabad belonging to a company in liquidation, namely, M/s. Continental Textile Mills Limited.

The auction for the sale of the land took place on February 01, 2007. The petitioner was the highest bidder, offering 41,05,08,000. Under the terms of the auction, 25% of the bid amount was required to be deposited within thirty days and the balance 75% within sixty days of the date of the auction. Thus, the petitioner was required to deposit 25% of its bid amount by March 02, 2007, and the balance 75% by April, 2007. It was also stipulated in the terms of the auction that in case of any breach in making deposit of the bid amount, the bid would be treated as cancelled. The petitioner deposited 25% of its bid amount on March 12, 2007, that is after delay of 10 days, but defaulted badly in making the deposit of the rest of the bid amount. The balance amount was deposited by the petitioner on August 08, 2008, only after a reminder, that was wholly uncalled for, was sent by the Official Liquidator.

It may be noted that before depositing the rest 75% of the bid amount, the petitioner had filed on May 06, 2008, an application which was registered as Company Application No.601 of 2008 making the prayer for extension of the time for deposit. The application was rejected by the Company Judge by order dated July 04, 2011. It may also be noted here that by that time, respondent Nos. 4 to 7 had also come into picture making an offer of Rs. 53 crores and later raising it to Rs. 62 crores, for the sale of the land in their favour. The petitioner challenged the order passed by the Company Judge in an appeal before the Division Bench. The Division Bench noted the aforesaid facts and by judgment and order dated September 16, 2011 rejected the appeal. While rejecting the petitioner's appeal, the Division Bench observed that the appellant (petitioner before this Court) would be entitled to refund, along with "some interest", for which it should make a proper application before the Company Judge. The petitioner then brought this matter to this Court in this special leave petition. When the special leave petition was taken up on March 26, 2012, we found the judgment of the High Court quite correct and sound. We, nevertheless, issued notice, primarily because it was stated on behalf of the petitioner that it was ready to make the matching offer of Rs. 62 crores. When the case was again taken up for hearing on January 24, 2013, respondents 4 to 7 raised their offer to Rs. 65 crores and when the petitioner agreed to pay Rs. 65 crores, further raised it to Rs. 70 crores. In order to secure the best value for the land, the case was adjourned for today and both the petitioner and respondents 4 to 7 were asked to give their highest offers in a sealed cover. When this case was taken up today, apart from the petitioner and respondent Nos. 4 to 7, there are other contenders with their offers in sealed covers.

On behalf of one of the parties seeking impleadment, it was stated that his offer was in three figures (in crores). We, therefore, see no reason to confine the bid, within this Court, among the four or five contenders who are before us. We feel that if the Company Court holds a public auction, the land would certainly fetch a better price. We, accordingly, direct the Company Court to hold a fresh public auction for the sale of the land. A refundable/adjustable deposit of Rs. 40 crores by a demand draft would alone make a party eligible to take part in the auction. It should also be clearly stated in the terms of the auction that the highest bidder would be required to deposit the entire bid amount by a demand draft within forty eight hours of the bid. In case, the highest bidder fails to deposit the bid amount within the stipulated time, the security deposit made by him would stand forfeited and in that case the next bidder would be called upon to deposit his full bid amount by a demand draft within forty eight hours.

The auction, as directed above, may be held and the sale may be confirmed within two months from the date of receipt/production of a copy of this order before the Company Court. The amount of Rs. 41,05,08,000 deposited by the petitioner shall be refunded to it with whatever interest the money has actually earned in the meanwhile. The refund should be made within one month from today.

With the aforesaid observations, the special leave petition stands dismissed. All other pending interlocutory applications do not survive in view of the dismissal of the special leave petition."

10. As is evident from the above order passed by the Supreme Court, bids were received in the Court during the pendency of the matter before the Supreme Court, which were much higher than the previous bid amount of Rs. 41 crores. There bids were to the tune of Rs.62 crores, Rs.65 crores, Rs.70 crores and even in three figures thereafter, as recorded in the above order. In view thereof, the Court directed a fresh public auction for the sale of the subject property. The conditions that were imposed by the Court for the said auction were:

i) That refundable deposit of Rs.40 crores by way of demand draft would alone make a party eligible to take part in the auction;

ii) That the bidder would be required to deposit the entire amount within 48 hours of the bid.

iii) In case the amount is not deposited, within the stipulated time i.e. 48 hours, the security deposit of Rs. 40 crores would stand forfeited, and the next bidder would be called upon to deposit his full bid amount by way of a demand draft within 48 hours.

11. The auction, in terms of the above order of the Supreme Court, was to be held and confirmed within two months from the date of receipt or production of copy of order before the Company Court.

Second auction:

12. Subsequent to the above order passed by the Supreme Court, the Company Court was again seized of the matter. The subject property was again valued in terms of the order dated 25th February, 2013. The relevant portion of the said order reads as under:

“1. The report dated 22nd February 2013 filed by the Official Liquidator ('OL') has been perused.

2. In terms of the order dated 31 st January 2013 of the Supreme Court in SLP (C) No. 10881 of 2012, the OL was required to write a letter to the Auction Purchaser ('AP') -Mis. Suchit Pavitra (Saraspur) Industrial Cooperative Society, enclosing a demand draft/ bankers' cheque in the sum of Rs. 41,05,08,000 together with whatever interest had accrued thereon.

3. In para 5 of the OL's report the amounts towards income tax, Government commission and tax deducted at source have been set out. That sum has to be deducted from the total amount payable. Counsel for the OL undertakes that a proper letter in terms of the Supreme Court's order dated 31st January 2013 setting out, the calculation for the amount of which the payment is being made, will be sent to the AP within one week from today. In terms of the order of the Supreme Court, the payment is to be paid by 28th February 2013. The AP will furnish to the OL Real Time Gross Settlement ('RTGS') details within two days. In the event such details are not furnished, the OL will nevertheless make payment by way of demand draft/bankers' cheque to the AP on or before 28th February 2013.

4. As regards the property situated at Naroda Road, Asarwa, Ahmedabad, Gujarat, the Supreme Court has, in its order dated 31st January 2013, noted that the offer "was in three figures (in crores)". Consequently, it becomes necessary to have the said property valued afresh for the purposes of fixing the appropriate reserve price for the sale by way of public auction.

5. Accordingly, Mr. Pranav Parikh, Engineer, 5th Floor, H.V. House, Near Auda, Opp. Gujarat Vidhyapith, Ashram Road, Ahmedabad - 14 (Mobile No. 09825037485) is appointed as Valuer to value the property in question. Needless to say that the Valuer will take in account the prevalent circle rates, while

determining the present market value. The Valuer will also examine if it is feasible to sell a portion of the property in terms of the local laws and would that in tum affect the value of the property.

6. The Valuer will submit his report within one month. The fee of the Valuer is fixed at Rs. 1 lakh which will be paid by the OL after completion of the said exercise and subject to further orders of this Court.

7. The report is disposed of.

13. In terms of the above order, the Valuer appointed by the OL submitted the valuation report, and in accordance with the said valuation, the reserve price of the subject property was fixed at Rs.292 crores. The auction was thereafter, advertised on 8th August 2013. However, no bids were received in respect of the said auction. The said auction notice was issued specifying the conditions which were directed by the Supreme Court vide its order dated 31st January, 2013. Thus, though there were four bidders before the Supreme Court who had agreed to purchase the subject property for varying sums including in three figures, when the reserve price was fixed at Rs.292 crores, no bidder came forward.

Third auction:

14. The Company Court continued to be seized of the matter. A third auction of the subject property was again conducted after obtaining a valuation report vide order dated 27th April 2016. This time, the reserve price was fixed at Rs.300 crores. The auction notice was again published on 11th January 2019.

15. A fresh auction was conducted on 15th April, 2019, however, even in this third auction, no bids were received.

16. In view of the fact that no bids were received, this Court again vide order dated 15th April, 2019 and 13th May 2019 after having obtained a fresh valuation report directed auction of the subject property with a reserve price of Rs.220 crores. This auction also failed in July 2019.

17. Thus, after the Supreme Court order of 31st January 2013, three auctions were held with the reserve price as Rs.292 crores, Rs.300 crores and Rs.220 crores. All the three auctions did not elicit any bids.

Fifth auction

18. Finally, an auction was again directed by this Court - this time, vide order dated 7th February 2023. The valuation report dated 5th February 2018 undertaken by Mr. Deepak Shah, Multi-Engineer gave different values to this property. The relevant portion of the reply application Co. Appl. 590/2023 is extracted herein below:

"20. That in compliance of the said order, Mr. Deepak Shah, Multi Engineer, was appointed for the purpose of valuation of the property, situated near Arvind Mills, Opposite Asarwa Railway Station, Naroda-Station Road, Mouja, Asarwa, Ahmedabad, Gujrat, and the said valuer submitted his valuation report in a sealed envelope with the Official Liquidator on 05.02.2018.

As per the said valuation report, total area of land is 1,17,717.51 Sq. mt. out of which 11,034.31 Sq. mt. is freehold land. Valuer has also mentioned that out of the total area, 255.35 Sq. Mtr. is being occupied/used by Dispensary Block (Ahmedabad Municipal Corporation) and 91.13 Sq. Mtr. is being used/occupied by Ahmedabad Electric Company/sub-station. Further, the valuation report also mentions the dues of Municipal Corporation and Land Revenue to the tune of Rs.3.84 crores. The valuer had given valuation as Scenario-I (entire land) and Scenario-II (excluding land occupied by Dispensary and Electric Sub-station). The valuation as per Scenario-I is as under:-

Market value= Rs.201,15,27,670/- Realizable

value= Rs.170,97,98,520/- Distress

value= Rs.140,80,69,3691-”

19. Finally, vide order dated 26th May, 2023, after having perused the different valuation reports, and the facts relating to previous auctions etc., the Court directed, despite objections of the Ex-Management, that an auction would be conducted afresh, with the reserve price of Rs. 167 crores. The said order reads as under:

“OLR 55/2023

1. The Official Liquidator [‘OL’] has filed the above-captioned report seeking directions to auction the property situated near Arvind Mills, Opposite Asarwa Railway Station, Naroda-Station Road, Mouja, Asarwa, Ahmedabad, Gujarat.

2. Mr. Siddharth Shankar, counsel representing Mr. Chander Verma - Ex-Director, has raised an objection regarding the reserve price. He submits that as per the valuation report submitted by him to the OL on 23rd May, 2023, prepared by the valuer - Pranav Parikh & Associates, the value of the said property is Rs. 313 crores. Ms. Ruchi Sindhwani, Senior Standing Counsel for OL, points out that on previous occasions, the auction could not succeed on account of similar objections being raised on the valuation of the property. Indeed on perusal of the past orders, it is revealed that on similar objection raised by the Ex-Directors, the reserve price suggested by the OL was modified and an attempt was made to auction the property at a reserve price of Rs. 220 cores. However, no bids were received.

3. Considering the above, in the opinion of the Court, the reserve price of Rs. 167 crores, as suggested by OL, which was also recorded in order dated 15th April, 2019, is accepted and the following directions are issued:

i) OLR is taken on record;

ii) OL is permitted to conduct sale/E-auction through M/s Railtel Corporation

Limited (E-Auction Agency); iii) E-Auction sale notice & Terms and Conditions of sale with respect to the property situated near Arvind Mills, Opposite Asarwa Railway Station, Naroda-Station Road, Mouja, Asarwa, Ahmedabad, Gujarat, annexed as Annexure-G is approved;

iv) OL is permitted to publish the sale notice in the newspapers Times of India (English), Navbharat Times (Hindi) in Delhi, Mumbai, Gujarat edition and Gujarat Vaibhav (Gujarati) Gujarat edition;

v) OL is permitted to bear the expenses of the same from the funds of the Company (In Liqn.);

vi) The Ex-management is directed to immediately remove their security and Official Liquidator is permitted to deploy their security guards at the said property.

4. With the above directions, the OLR is disposed of.

CO.PET. 188/1999

5. List on 3rd October, 2023."

As per the above order, the auction notice annexed was duly approved by the Company Court.

20. Pursuant to the order, the OL went ahead with the usual auction notice seeking deposit of EMD of 10%, payment of 15% within seven days after the auction and deposit of the entire consideration amount within sixty days. The publications were effected on 10th June, 2023 in Times of India, Navbharat Times and Gujarat Vaibhav as also in Divya Bhaskar. The said auction notice dated 8th June 2023 reads as follows:

"IN THE HON'BLE HIGH COURT OF DELHI

ORIGINAL JURISDICTION

IN THE MATTER OF THE COMPANIES ACT, 1956 &

IN THE MATTER OF

M/s. CONTINENTAL TEXTILE MILLS LTD.

COMPANY PETITION NO. 188/1999

E-AUCTION SALE NOTICE

Tenders/bids are invited for E-auction of the following assets and properties of the company (In Liqn) on "As is Where is Whatever there is basis" from the prospective buyers. The details of Reserve Price and EMD are as under:

Lot No.

Description of the Property

Reserve Price/Fair Market Value (In Rs.)

Earnest Money (In Rs.) (10% of Reserve Price)

1.

Land situated near Arvind Mills, Opposite Asarwa Railway Station, NarodaStation Road, Mouja, Asarwa, Ahmedabad, Gujrat.

Lease hold Land F.P. No. 11/P (422, 424/A/2, 425/A, 426, 427/1, 427/2, 428/1, 428/2, 428/3, 435/A, 436/A, 436/B and 664/2)- Admeasuring 1,02,701.69 Sq. Mtr.

Freehold Land F.P. No. 11/P (423/B, 425/3/B and 433/A)- admeasuring 11,034.31 Sq.Mtr.

Leasehold Land F.P. No. 24/P (433/A) admeasuring 3,981.51 Sq. Mtr.

Total Area (Lease Hold Plus Free Hold)- 1,17,717.51 Sq. Mtr.

Rs. 167 crores

Rs. 16.7 crores

Note:

1. Inspection of the above assets/ properties will be held on 16.06.2023 and 17.06.2023 between 11:00 A.M to 4:00 P.M.

At the time of taking inspection of the aforesaid assets/ properties of the company (In Liqn), all the interested buyers are requested to follow the advisory issued by the District Administration of the area in respect of spread of COVID-19 in the interest of their own well being and in public interest

2. The e-auction will be conducted through the website https://olauction.enivida.com on 28.06.2023 between 11:00 A.M to 4:00 P.M with auto time extension of 10 minutes each time if the bid is made in the Last 10 minutes before the close of e-auction.

3. The bidders/ tenderers should submit their online offer through the website https://olauction.enivida.com.

4. The tenderers should collect the detail information, terms & condition through the website https://olauction.enivida.com and may also take help from the below contacts:-

Navneet Mishra: - 3550030630

Amrendra Kumar: - 8448288980

Anand Kumar:- 9355030602

5. The EMD amount (interest free) should be deposited through the modes available on the portal. The last date of online submission of EMD is 26.06.2023 up to 5.00 P.M

6. This sale is subject to confirmation by the Hon'ble High Court of Delhi.

DATE: 08/06/2023

PLACE: NEW DELHI

-S/d

(A.K MAHAPATRA)

OFFICIAL LIQUIDATOR

HIGH COURT OF DELHI”

21. The relevant clauses of the Terms and Conditions of the e-auction notice dated 8th June 2023 are as follows:

“8.4 25% of the bid amount to be deposited with the OL Delhi by the successful bidder within 7 days from the date of acceptance of H1 bid failing which the Pre-Bid EMD/EMD shall be forfeited by the Seller. The buyer may adjust the Pre-Bid EMD/EMD with the Security deposit (SO).

8.5 The entire due balance payment will have to be paid by the successful Bidder to the Official Liquidator, Delhi within 60 days of acceptance of H1 bid.

8.6 The highest Bidder will not be entitled to assign their right to buy the scheduled property to any third party or nominate any third party, once they are declared to be the successful Bidder. In other words, the Sale will be made only to the successful Bidder and not to any third party.”

22. The EMD was to be deposited by 26th June 2023 at 10% of the reserve price. The auction was to be conducted on 28th June, 2023. However, before the auction could take place, the present application was moved, and the auction was stayed by this Court vide order dated 28th June 2023 during the summer vacation. In the meantime, within the deadline prescribed, the 10% EMD has been deposited by only one bidder- and no other bids have been received in respect of the subject property. The bid has been submitted by M/s Jupiter Laminators Pvt. Ltd. at the reserve price of Rs.167 crores.

23. In the present application, the submission of Mr. Narang, ld. Counsel appearing for the applicant is that the auction notice published by the OL was not in terms of the order passed by the Supreme Court. The conditions specified in the said order have not been adhered to. The second submission is that a second bidder had also attempted to submit their bid through one Mr. Manish Banga. However, the second bidder could not do so due to a technical glitch on the RailTel portal. Mr. Narang further submits that after publication of the auction notice, a letter was addressed by his client to the OL regarding the discrepancy in the notice. However, upon a query from the Court, it is conceded that at the time when the order dated 26th May 2023 was passed, though his client was duly represented, the objection relating to the Supreme Court order was not taken before the court.

24. On behalf of the OL, Ms. Ruchi Sindhwani, ld. Senior Standing Counsel submitted that the entire e-auction was to be conducted through M/s RailTel Corporation, and the portal was also being managed by M/s RailTel Corporation itself. After seeking a clarification from M/s RailTel Corporation, she has placed on record e-mails as evidence to show that the said second bidder who merely tried to log into the portal, never deposited the EMD.

25. In fact, the second bidder got his user ID activated only on 27th June 2023 at 9.54 a.m., much after the deadline expired at 5p.m on 26th June, 2023. Insofar as the order of the Supreme Court is concerned, it is submitted that the auction in terms of the order of the Supreme Court was conducted by the OL immediately after the said order was passed on 31st January, 2013. However, the said auction notice did not elicit any bids. Thereafter, for all the remaining three auctions, the OL has been following the standard format of asking for 10% EMD, and remaining 15% of the bid amount 7 days after the bid is accepted, and the remaining 75% after a period 60 days.

26. Ms. Sindhwani submits that the Ex-Management has repeatedly obstructed the valuation of subject property and created impediments in the conduct of the auction. She further submits that there are various encroachments on subject property, despite the fact that one of the Ex-directors was required to secure the subject property.

27. In view of all these constraints, no bids have been received for the last ten years in respect of the subject property. She further submits that the Ex-Management has held up the auction on one ground or the other. In support of this submission, various orders passed by this Court that had repeatedly permitted auction of the subject property, each time considering the various objections raised by the Ex-Management, are relied upon.

28. Insofar as the terms of the auction are concerned, no objection has ever been raised by the Ex-Management in respect of the procedure that has been followed in conducting the last two auctions.

29. Mr. Sandeep Sethi, ld. Senior Counsel appearing for the bidder- M/s Jupiter Laminators Pvt. Ltd., submits that the auction purchaser has duly deposited the EMD in terms of the auction notice. In respect of the order of the Supreme Court, it is his interpretation, that the same was to operate for one auction to be conducted within the period of two months, after the order was passed. According to the Mr. Sethi, the said order of the Supreme Court would not be applicable in respect of the remaining auctions, if any, conducted by the OL.

30. Heard. The Court has considered the matter. A perusal of the order of the Supreme Court would show that it was passed in the unique circumstances that existed at the time. Therein, there were four bidders who were present in the Court, making bids higher than the auction purchaser, who was then the Petitioner before the Court. The three conditions which were stipulated by the Supreme Court were in respect of one public auction that was to be held and

confirmed within a period of two months from the said order being passed. Ideally, the said order of the Supreme Court ought to have been placed before the Company Court and it ought to have been pointed out that the terms in the auction notice are different, owing to the fact that no bids were received in terms of the conditions fixed in the said order. However, the OL, on its own understanding has not done so. Also, none of the subsequent auctions except the one under consideration, have even elicited any bids.

31. A perusal of the auction notice issued in 2013 immediately after the Supreme Court's order shows that the same was as per the conditions which were stipulated therein i.e. requiring a minimum payment of Rs.40 crores to participate in the auction bid. The said auction notice was published on 27th July, 2013 in Jan Satta and in other English newspapers. However, no bids were received. Thereafter, three more auctions have been conducted on the standard terms followed by the OL, again no bids were received. Thus, a total of four auctions have been unsuccessful in inviting bidders in respect of the subject property. The present petition has been pending since 1999, and the OL was appointed 22 years ago i.e., on 5th October, 2001. In the latest round of public auction conducted, a bid has been received at the reserve price of Rs.167 crores for the first time.

32. In light of the above, the objections raised by the Ex-Management are not tenable as it appears to the Court that since the inception of this Company petition almost 22 years ago, the OL is unable to sell the property and raise any money, even for the workmen and other creditors. The ex-Management has created repeated obstacles and impediments in the auction of the property, thereby requiring repeated valuations by the Company Court at each and every stage. The process has been delayed beyond a decade. Even today, the only bidder has deposited a substantial sum as EMD and is ready to pay the entire consideration within sixty days as per the auction notice. Ld. Sr. counsel for the auction purchaser-Mr. Sethi submits that it would strictly adhere to the schedule as per the auction notice. Under these circumstances, this Court is of the opinion that the Ex-Management cannot be rendered successful in yet another attempt to scuttle the auction process. Thus, the objections raised by the Management are rejected. The OL is directed to proceed ahead with the finalization of the auction with the successful bidder i.e. M/s. Jupiter Laminators Pvt. Ltd.

33. The auction purchaser- i.e. M/s. Jupiter Laminators Pvt. Ltd shall now pay the remaining 15% within seven days, and the remaining 75% of the entire sale consideration shall be deposited within sixty-days after the expiry of the seven days from today.

34. Insofar as the applicant is concerned, it is clear to this Court that when the order dated 26th May, 2023 was passed, the said order was passed in the presence of the Ex-Management. The auction notice was specifically approved by the Court. At that time, the Ex-Management never raised any objections in respect of the terms of the auction. It is clear to this Court that the entire

attempt of the Ex-Management is to render every auction a failure – with some oblique motives. The same is clear from the various orders passed by this Court dated 9th January 2007, 25th February 2013, 9th July 2013, 8th August 2013, 18th July 2014, 24th August 2017, 11th January 2019, 15th April 2019, and 26th May 2023.

35. The OL's admits that the said order of the Supreme court was not placed on record with the OLR No. 55/2023 inadvertently. In any case, the OL's stand is that the said order was duly complied with in the first auction which was conducted after the order was passed.

36. In these circumstances, the present application filed by the ex-Management is dismissed with Rs.50,000/- as costs. The said amount shall be deposited by the applicant- Shri Chander Verma with the OL's common pool within two weeks.

37. The sale in favour of the auction purchaser- M/s Jupiter Laminators Pvt. Ltd. shall stand confirmed after the entire sale consideration amount is deposited on prescribed terms. Upon the entire sale consideration being paid, the possession of the subject property shall be handed over, and the documents shall be executed by the OL in favour of the auction purchaser - M/s Jupiter Laminators Pvt. Ltd. in accordance with law.

38. The present application is dismissed, in the above terms.

CO.PET. 188/1999

39. List on 31st October 2023.

