(2019) 10 DEL CK 0266

In the Delhi High Court

Case No : Company Petition No. 217 Of 1990

Re-In The Matter Of Lalaji Paper Mills Pvt. Ltd Vs

Date of Decision : 01-10-2019

Acts Referred:

Company (Court) Rules, 1959 — Rule 9, 281
Companies Act, 1956 — Section 481

Citation : (2019) 10 DEL CK 0266

Hon'ble Judges : Jyoti Singh, J

Bench : Single Bench

Advocate : D. Bhattacharya

Judgement

Jyoti Singh, J

CO. APPL. 1050/2019

1. This application has been moved by the Official Liquidator under Section 481, Companies Act, 1956, read with Rules 9 & 281 of the Company (Court) Rules, 1959 (hereinafter referred as CCR), primarily praying for dissolution of the Company (in Liqdn.), namely, M/s Lalji Paper Mills (P) Ltd.

2. Perusal of the application reveals that this Company came to be wound up vide Order dated 23.08.1991, where after the Official Liquidator took over the Company (in Liqdn.). On the basis of investigation, following assets were seized:-

i. The Registered Office of the company, being L-92, First floor, Lalji Shopping Complex, Munirka, New Delhi-67, and,

ii. the Factory premises (as well as the Plant & Machinery located therein), situated at Barotiwala, Distt. Solan, Himachal Pradesh.

3. As the proceedings progressed, it transpired that the Registered Office, i.e. the property enumerated at para 2 (i) above, didn't belong to the Company (in Liqdn.). Instead, the same turned out to be owned by one Mr. Mukesh Sharma and Sh. Ved Prakash Garg. Accordingly, the same was released to the said owners on 27.07.2018 under Order of this Court dated 06.07.2018. The said

property had some assets lying therein, which were bought by the owners themselves, for a sum of Rs. 11,500/-. But the other assets, enumerated at para 2 (ii) above, being the Factory premises, including land & building as well as the Plant & Machinery lying therein, were owned by the Company (in Liqdn.), and accordingly steps were taken by the Official Liquidator for valuing them and consequently auction it. This sale took place vide Order dated 27.03.2003, of this Court, in favor of M/s Triple A Wire link Industries, auction purchaser, for a sum of Rs. 95.11 Lacs. Accordingly, the assets were released by the Official Liquidator.

4. Thus, the Official Liquidator successfully liquidated the available assets of the Company (in Liqdn.); and thereafter, for ensuring due disbursement of the realised amounts, invited claims from the creditors of the Company (in liqdn.) on 30.09.2003, by way of publication in the newspaper namely "Punjab Kesari" (Hindi) edition.

5. Upon receiving the claims, it was found that the available funds could only be disbursed to the Secured Creditors, namely, HP State Industrial Development Corporation (HPSIDC), Himachal Pradesh Financial Corporation (HPFC) and Punjab National Bank, Shimla (H.P.). Accordingly, vide Order 18.05.2007, the said disbursement was crystalised by this Court.

6. It is submitted by Mr. D. Bhattacharya, learned Standing Counsel, that the Official Liquidator after liquidating the available asset, ie. the asset enumerated at para 2 (ii) above, duly disbursed the realized sums amongst the three secured creditors. The other asset which was initially seized, had to be released to its true owner as the Company (in Liqdn.) wasn't owning it. In view of this, as on date there is no other asset that remains to be liquidated, and, the claims have already been settled as mentioned above. Counsel for the Official Liquidator submits that to the best of information available with the Official Liquidator, no case is pending against the Company (In Liqdn.). Further, most of the Ex-Directors went untraceable, and the sole ex-Director, Sh. Ajit Soni didn't render any assistance to the Official Liquidator. Accordingly, the Official Liquidator is unable to proceed further. He submits that accordingly no further step could be undertaken by the Official Liquidator, and hence circumstances are apt for dissolving the Company (in Liqdn.). He also prays for the relief of reimbursing the Official Liquidator with a sum of Rs. 35,000/- towards Liquidation expenses i.e. audit fee, govt. fee etc., from the available fund balance. He further submits that the balance in the fund, after deducting the said Rs. 35,000/-, may be directed to be remitted to the Common Pool Fund.

7. Heard the counsel for the official Liquidator.

8. From the submissions made by the counsel, it seems that the Liquidation process has been carried out, as per the Companies Act. The Official Liquidator liquidated the available assets of the Company (in Liqdn.), and distributed the realized amounts amongst the secured creditors. he Official Liquidator is not seized of any other asset. The Official Liquidator has not received any complaints

so far. Accordingly, there is no reason for not dissolving the Company (In Liqudn.) and terminate the proceedings.

9. The present application is thus allowed, in the following terms:

i. the Company (in Liqdn.), namely M/s Lalji Paper Mills (P) Ltd. is hereby dissolved;

ii. the Official Liquidator is permitted to remit to itself a sum of Rs. 35,000/- from the available fund balance lying in the Company (in Liqdn.) account, towards liquidation expenses, government fee etc., and the balance sum of Rs. 7,01,642/- is directed to be remitted to the Common Pool Fund.

10. The application stands disposed of.

CO.PET. 217/1990

11. With the above, the Official Liquidator shall close the Books of Accounts with respect to the Company (In Liqdn.) and communicate this Order to the Registrar of Companies, Delhi.

12. The next date of hearing, if any, previously fixed, stands cancelled.

