(2005) 04 DEL CK 0076

In the Delhi High Court

Case No : CA 1222 of 2002 in CP. 265/98

Reserve Bank of India APPELLANT

Vs

JVG Finance Ltd. RESPONDENT

Date of Decision : 21-04-2005

Acts Referred:
Companies Act, 1956 — Section 531

Citation : (2005) 04 DEL CK 0076

Hon'ble Judges : A.K. Sikri, J

Bench : Single Bench

Advocate : O.P.Grover, Party in Perso S.K. Luthra and Manisha Tyagi, for the Appellant;

Final Decision : Dismissed

Judgement

A.K. Sikri, J.—In this application applicant seeks direction to the Official Liquidator to consider the case of the applicant and handover the possession of Flat No. 4/28, JVG Enclave, Haridwar, Uttaranchal. The case set up by the applicant Mr. O.P. Grover is that in the name of his wife Smt. Ved Kumari he had made deposit of Rs. 25,000/- by way of Fixed Deposit on 20.9.1995 for a period of two and a half years. The payment was to be doubled during this period and a post dated cheque of Rs. 50,000/- dated 20.3.1998 was given in favor of Smt. Ved Kumari by M/s. JVG Investments Ltd. Smt. Ved Kumari had also deposited a sum of Rs. 25,000/- with M/s. JVG Leasing Ltd for purchase of 2500 shares. As the shares were not allotted, Smt. Ved Kumari was issued a cheque of Rs. 25,000/ with same date. Another deposit of Rs. 25,000/- was given by one Dr. V.N. Chhabra for allotment of 2500 shares on 12.6.1998. He was also given back the cheque on same date by M/s. JVG Holdings Ltd. The petitioner states that he was thus, in possession of three cheques, one of Rs. 50,000/- dated 20.3.1998 and two cheques of Rs. 25,000/- each dated 12.6.1998. The case set up by the applicant in this application is that on 21.4.1998 he surrendered these cheques to the respondent company i.e. JVG Finance Ltd. in consideration of the aforesaid flat which was booked in his name. He gave letter dated 21.4.1998 for this purpose and on the said letter an endorsement was made that "received original cheque for booking of flat 4/28, booking confirmed". Thus we submits that flat belongs to him against the aforesaid payment and, Therefore, it should be released to him by the Official Liquidator. It may be noted that there are numerous such and similar claims filed by various other persons who are claiming that they had purchased flats/properties from the company (in liquidation) developed by the company at various places in India. For examining these claims, Mr. G.P. Thareja, Committee was constituted by this court. On February 3,2005 order was passed in this case observing that the matter needs further probe and investigation for arriving at some definite finding. Claim made in this application was, Therefore, referred to the said Committee. The Committee looked into the claim and vide order dated 23.2.2005 has rejected the same. A copy of the said order was produced by learned counsel for the Official Liquidator at the time of hearing. In the said order, claim is rejected by observing as under:

"The endorsement mentioned "received original cheque for booking of flat 4/28, booking confirmed". Admittedly, the cheques could not be encased as the cheques were post dated as far as the amount of Rs. 25,000/- in the name of Smt. Ved Kumari and Rs. 25,000/- in the name of Y.N. Chhabra is concerned. Admittedly, this transaction has taken place within six months of 25.6.98 the winding up of JVG Finance Ltd by the Court. For transactions which have been done within six months of the date of the winding up cannot be recognized under the law. In any case assuming for the sake of argument that it was a booking confirmed it is a preferential treatment. No preferential treatment can be made in favor a claimant within six months prior to the date of winding up. Therefore, assuming that there is booking confirmation it cannot be recognized under the law. Even otherwise the cheques related to JVG Investments Ltd and JVG Holdings Ltd, companies which are not under liquidation. Unless evidence is produced that the said cheques were encased and amount thereof was received by JVG Finance Ltd no benefit can be granted to the claimant. There is no record available of such payment. Thus from whatever angle the matter is considered, the claimant has absolutely no claim which can be recognized under the law as far as the flat No. 4/28, JVG Enclave, Haridwar is concerned. The claim of the claimant is Therefore rejected."

2. Mr. O.P. Grover appeared in person and could not dispute the correctness of the facts mentioned in the aforesaid order. His only plea was that in the order although it is stated that such a transaction within six months of the date of winding up cannot be recognized under the law but no provision of law is mentioned. Such a provision is contained in Section 531 of the Companies Act. It may be additionally noted that even as per applicant''s own averments cheques were issued by JVG Investment Ltd and JVG Holdings Ltd which were not encased as they were dated 20.3.98, 12.6.1998 and 12.6.1998 respectively. Instead they were allegedly surrendered on 3.4.1998 that too to JVG Finance

Ltd. (in liquidation). No other documents could be produced by the applicant showing as to what was the sale consideration for the flat.

3. I, Therefore, find no merit in this application, which is accordingly dismissed.