
(2011) 07 DEL CK 0106

In the Delhi High Court

Case No : Co. App. No. 227 of 2011 in Co. Petition 66 of 2003

Societe General

APPELLANT

Vs

Daewoo Motors India Ltd.

RESPONDENT

Date of Decision : 15-07-2011

Acts Referred:

Citation : (2011) 07 DEL CK 0106

Hon'ble Judges : P.K. Bhasin, J

Bench : Single Bench

Advocate : None, for the Appellant; Arjun Kathpalia, Rajnish Sinha, Harshit Aggarwal, Pinaki Mishra Dhruv Dewan, for ARCIL, Kanwal Chaudhary, for OL, Sanjiv Kakra and Irfan Ahmed for State Bank of Patiala in COA No. 482/2010, for the Respondent

Judgement

P.K. Bhasin, J.—This application filed on behalf of the employees of the Company - in-liquidation for ad hoc payment of their wages as an interim relief pending consideration of various issues involved in the main matter.

2. The relevant facts appearing from the record and the submissions made during the course of hearing are that in some proceedings initiated by ICICI Bank before the DRT - III, Mumbai being (O.A. No. 162/2002) in the year 2002 for recovery of its money from the Company in liquidation its claim was decreed on 31-08-2004 and in execution proceedings by the Recovery Officer some property of the Company in liquidation was sold through private sale. As per the present Applicant, the property was sold in the year 2007 for a sum of Rs. 765/- crores and out of that amount a sum of Rs. 50 crores was earmarked by the Recovery Officer towards workers' claim. These facts are not in dispute.

3. The prayer made by the workers of the Company in liquidation for disbursement of the amount of Rs. 50 crores earmarked for them out of the sale consideration received from the sale of the property of the Company in liquidation has been opposed on behalf of M/s. Asset Reconstruction Company (INDIA) Ltd. ("ARCIL" for short), which Company claims to have been assigned

the rights of the creditors of the Company in liquidation including the ICICI Bank and consequently it also claims to have become entitled to receive the sale proceeds of the assets of the Company in liquidation. It has opposed this application of the workers, inter-alia, on the grounds that this Court has no jurisdiction whatsoever to entertain this kind of prayer of the workers in view of the decision of the Hon''ble Supreme Court in the case of Allahabad Bank v. Canara Bank (2004) 4 SCC 406 according to which judgment it would be only the Debt Recovery Tribunal, Mumbai which can order any kind of release of money to workers and that too after the Official Liquidator attached to this Court has authoritatively and finally accepted the claim of the workers. Another ground raised by ARCIL in opposition to this application is that the sale of the property of the Company in liquidation itself has been challenged by the workers themselves and that challenge is pending consideration before the Debt Recovery Tribunal and, therefore, they cannot ask for disbursement of any money out of the sale proceeds. The application has also been opposed on the ground that so far the Official Liquidator or the Committee appointed by this Court for settling the claims of the workers have not been able to give any final report and whatever report has already been submitted has been seriously challenged by the workers.

4. Regarding the point taken by ARCIL that the workers themselves have challenged the validity of the sale the response of the workers was that all that they have challenged before the Debt Recovery Tribunal is that the purchaser of the sale property has paid only a sum of Rs. 267.50/- crores out of the total sale consideration of Rs. 765/- crores and has also not complied with some other terms of sale.

5. During the course of hearing it was contended on behalf of the workers that this Court can pass an order for ad hoc payment of the workers' dues from the amount of Rs. 50 crores also lying earmarked for payment of their dues while it was seriously contended on behalf of ARCIL that this Court has no jurisdiction to entertain this request of the workers. In support of their respective submissions, learned Counsel from both the sides had cited many judicial pronouncements of the Hon''ble Supreme Court as well as of different High Courts.

6. After having given my consideration to the rival submissions, I am of the view that as far as the prayer made by the workers for making ad hoc payments to them is concerned, the same cannot be considered at this stage since admittedly the very sale of the property is under challenge at the instance of the workers. In case that sale itself is set aside by the Debt Recovery Tribunal there would be no money available for being disbursed to the workers. Learned Counsel for the workers had submitted that there are many buyers ready to purchase the property in question for a consideration of over Rs. 900/- crores and even if the sale in favour of the existing purchaser is set aside the new willing purchaser would refund the money to the purchaser out of the sale consideration. However, on this ground also the workers cannot be paid any money only in the hope that some party would be coming forward to offer some price more than what the

existing purchaser had offered.

7. This prayer of the workers is, therefore, declined for the time being. However, it is clarified that if the challenge of the workers to the sale of the property in question is not accepted or they give up their challenge to the sale, they would be at liberty to approach this Court once again for the same relief and at that stage it would be considered in accordance with law and at that stage even the objections raised by ARCIL that this Court has no jurisdiction to order release of any money to the workers even if the existing sale is confirmed shall also be considered and no view is being expressed at present.