
(2006) 05 RAJ CK 0025
In the Rajasthan High Court

Swadeshi Polytex Ltd.

APPELLANT

Vs

Jaipur Spg. and Wvg. Mills Ltd. (In liquidation)

RESPONDENT

Date of Decision : 26-05-2006

Acts Referred:

COMPANIES ACT, 1956 — Section 456, 457, 460, 535

Citation : (2007) 76 SCL 525

Hon'ble Judges : Shiv Kumar Sharma, J

Bench : Single Bench

Judgement

Shiv Kumar Sharma, J.—The applicant Podar Mills Limited moved this application along with Judge's summons for seeking the orders of this Court inter alia to the effect that the capitalised value of the land described in Annexure 1 appended to the application be fixed and the Official Liquidator be directed to disclaim the said land u/s 535 of the Companies Act and the amount so fixed by this Court may be directed to be deposited by the applicant and further that the Official Liquidator be directed to transfer/ assign the reversionary rights and other interests in the said land in favour of the applicant on the capitalised value so fixed by this Court. The piece of land which is in possession of the applicant Podar Mills Ltd. belongs to the Jaipur Spinning and Weaving Mills Ltd. (the company in liquidation) which was ordered to be wound up by this Court vide order dated December 2, 1983. After the winding up order all the properties of the company in liquidation shall be deemed to be in the custody of the Court as from date of order of winding up of the Company by virtue of the provisions of Section 456 of the Companies Act. It has been averred that a large chunk of land which was owned by the Company in liquidation was leased out to the applicant Podar Mills Ltd. vide registered lease deed dated December 30, 1964. The term of lease was 99 years against an yearly rent of Rs. 20,000. This lease deed was modified in another lease deed between the company in liquidation and the applicant Podar Mills Ltd. On August 23, 1968 increasing the area from 35,380 sq. yards to 56,629 sq. yards for 999 years and the rent was increased to Rs. 35, 510 per year.

2. The Official Liquidator moved an application No. 21 of 1988 in Company petition No. 10 of 1980 under Sections 456, 457, 460 [read with Section 456(2)] of the Companies Act for seeking the permission from this Hon"ble Court to take possession of the premises and for a direction to the District Magistrate authorising them to take the possession of the said land and deliver it to the Official Liquidator mainly on the ground that the applicant had not paid the yearly rents with effect from 1-4-19B6. After the aforesaid application came to be filed, the State Bank of India, which is a secured creditor, filed an application that in a suit filed by it in the Bombay High Court against applicant Podar Mills Ltd. the Bombay High Court has appointed a Court Receiver over the properties and thus the proceedings initiated by the Official Liquidator deserves to be dismissed in absence of the leave obtained from the Bombay High Court. This Court vide order dated July 5, 1991 allowed the Official Liquidator to implead the Court Receiver as party in the aforesaid application after obtaining leave from the Bombay High Court. The Official Liquidator through advocate filed application in the Bombay High Court and the same remained undecided and in the meantime the recovery suit came to transferred to the Debt Recovery Tribunal -I, Mumbai. The Debt Recovery Tribunal vide order dated November 22, 2001 discharged the Court Receiver with a direction to hand over the possession to the applicant. The applicant in these circumstances filed this application for fixing capitalised value of the land