

NATIONAL COMPANY LAW APPELLATE TRIBUNAL, NEW DELHI

Company Appeal (AT) No. 42 of 2020

IN THE MATTER OF:

Bhagyanagar Boards & Chemicals Pvt.

Ltd. & Ors.

...Appellants

Versus

Vijay Kumar Goyal & Ors.

...Respondents

For Appellant: Mr. Ramji Srinivasan, Mr. Abhinav Rao, Ms. Monalisa Kosaria and Mr. Sikhar Singh, Advocates

For Respondent: Mr. Ravi Raghunath, Advocate (R1-R3)

ORDER

18.02.2020 Heard learned counsel for the Appellants and Mr. Ravi Raghunath, Advocate for Respondent Nos. 1 to 3, the original Petitioners in the Company Petition. Respondent Nos. 4 to 6 are Proforma Respondents, as arrayed. The Learned Counsel for the Respondent Nos 1 to 3 has appeared on his own under instructions from these Respondents. He is also heard.

It is stated that Impugned Order Para 1 shows as to the relief, which was sought in the IA No. 1103 of 2019 which was filed by Respondent Nos. 1 to 3 herein. The prayer reads as under:

“a. Direct the Respondents 1 and 3, 5 to 8 to deposit the compensation amount of Rs. 9,99,18,703/- (Rupees Nine Crores Ninety-nine Lakhs Eighteen Thousand Seven Hundred and three only) and such further or other amounts that may be received by any of the Respondents from the Greater

Hyderabad Municipal Corporation in a separate Bank Account, to the Credit of the present proceedings in T.P. No.06/HDB/2016, and to further direct the Respondents not to alienate or otherwise encumber the said compensation amount in any manner whatsoever;”

The Learned Senior Counsel submits that in spite of such prayer the order passed by the Learned NCLT, Hyderabad Bench, Hyderabad is as follows:

“a. In view of the above, the Respondents are hereby directed to place the amount of Rs. 9,99,18,703/- received as compensation from the Greater Hyderabad Municipal Corporation in a separate Fixed Deposit Account for safe keeping and also place all the particulars of the amounts and stage of the application filed by R 1 Company for enhancement of compensation within two weeks before this Bench and further serve a copy of the same to the Applicants.”

Learned Counsel states that the amount received as compensation towards land has already been deposited by the Appellants in Fixed Deposits. Learned Senior Counsel tenders at bar particulars of the Fixed Deposits which have been created of the amounts. The document is marked ‘X’ for

identification. The Learned Senior Counsel submits that it was stated to the Learned NCLT that the amounts are kept in safe custody but still such order to put the amount in separate Escrow Account has been passed. The learned counsel for the Respondents is stating that the Appellants did not disclose particulars as to how and where the money is deposited and it is only now that the particulars of Fixed Deposits are disclosed.

The Appellant has in the Appeal Para 7.44, stated about keeping the amount of Rs. 9.87 Crores in Fixed Deposits.

It is stated that the Company Petition itself needs to be decided urgently and that it is kept for final hearing on **4th March, 2020**. It is stated that even written arguments have been filed.

It appears to us that if the amounts have been kept in Fixed Deposits, the same may continue to be kept in Fixed Deposits and the same should be renewed with interest from time to time. Learned Counsel for the Respondent submits that there being disputes between the parties, the Fixed Deposits should not be encumbered by the Appellants, we find that the request is reasonable. It would be appropriate that the Company Petition is decided early for the welfare of the company.

The Learned Counsel for the Appellant states that the Appellants had received Rs. 9,99,18,703/- out of which some amount was utilised for repair of the walls and the Company which was demolished by the Municipal Corporation. Learned Counsel for the Respondents submits that this was against the orders of the Ld. Company Law Board, copy of which is at Annexure A-32, which had directed the Appellants to keep the whole amount in safe custody.

The Fixed Deposits created are of Rs. 9,87,61,429/-.

For the above reasons, we substitute figure of Rs. 11,57,274/- in the Impugned Order Para 7, in place of Rs. 9,99,18,703/-, the rest of the amount which is stated to have been deposited in Fixed Deposits shall be continued to be maintained in Fixed Deposits as shown in document marked 'X'. The Appellants would be responsible to renew the Fixed Deposits with interest from time to time, till decision of the Company Petition. The Appellant will not encumber the Fixed Deposits in any manner.

The Company Petition be urgently disposed preferably within two months.

With this modification, the present Appeal stands disposed of.

[Justice A.I.S. Cheema]
Member (Judicial)

[Justice A.B. Singh]
Member (Judicial)

[Kanthi Narahari]
Member (Technical)

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