

ORDER SHEET

IA NO.CA/20/2014
(OLD No.CA/566/2014)

In
CP/316/1981

IN THE HIGH COURT AT CALCUTTA
Original Jurisdiction
ORIGINAL SIDE

IN THE MATTER OF :
KOLAY BISCUIT CO. PVT. LTD.(IN LIQN.)
AND
KOLAY PROPERTIES PVT. LTD.
VS
O.L, H.C. CAL & ORS.

BEFORE:

The Hon'ble JUSTICE SABYASACHI BHATTACHARYYA

Date : 22nd August, 2024.

Appearance:

Mr. Debashis Kundu, Adv.(V.C)

Mr. Indranil Nandi, Adv.

Mr. Sayak Konar, Adv.

..for the applicant

Mr. Rajiv Lall, Adv.(V.C)

Ms. Debjani Mitra Neogy, Adv.

..for Official Liquidator

The Court: A peculiar predicament has arisen in the present case. There was a liquidation sale, pursuant to which a portion of the entire property admeasuring about 7 bighas 5 cottahs 11 chittacks and 33 sq.ft. under premises no.100A and 100B, Kabi Sukanta Sarani, Kolkata 700 085 was sold to the respondent no.2, but without any physical demarcation of such specific portion.

It transpires from the status report filed by the Official Liquidator as well as from the averments made in the present application that the liquidation sale took place in view of Kolay Biscuit Private Limited, the

company-in-liquidation, having gone into liquidation. Kolay Biscuit, however, was a lessee under the present petitioner. The extent of the let-out property was confined to 3 bighas 7 cottahs 13 chittakcs and 21 sq.ft. out of the above-mentioned entire property. However, at the time of the sale, the Official Liquidator took physical possession of the entire property of 7 bighas 5 cottahs 11 chittacks and 33 sq.ft. and the sale certificate was issued in favour of the respondent no.2 with regard to the said property, without demarcating the specific portion which was let-out to the company (in liquidation).

It is further submitted by learned senior counsel appearing for the petitioner as well as learned counsel for the Official Liquidator that despite repeated notices, the purchaser/respondent no.2 has not come up as yet to have a regular sale deed registered or to approve the draft deed sent to the said respondent for the purpose of finalizing the process of sale.

Since the respondent no.2 abstains from the present hearing as well, it is deemed that the respondent no.2 is deliberately evading appearance.

Upon hearing learned counsel, it is evident that despite the company (in liquidation) being entitled to only the let-out portion of the undemarcated property, i.e., 3 bighas 7 cottahs 13 chittacks and 21 sq.ft., out of the total property as described above, possession of the entire property was erroneously taken.

To set the said wrong right, the prayer for demarcation made in the present application is required to be allowed.

Accordingly, the petitioner and the respondent no.1/Official Liquidator are directed to hold a joint inspection to demarcate the leasehold

land of the company (in liquidation) admeasuring 3 bighas 7 cottahs 13 chittaks and 21 sq.ft. which has been sold by them to the respondent no.2, thus separating the same from the surrounding land belonging to the present petitioner. Such inspection shall be held within four weeks from date and a report in that regard shall be filed on the next returnable date before this Court.

It is made clear that at the time of such inspection, it will be open to the petitioner to furnish all the relevant documents, maps, etc. in order to facilitate a proper demarcation of the property.

In the event police assistance is required at the time of such inspection and demarcation, it will be open to the parties to approach the concerned police station having jurisdiction in the area. If so approached, the Officer-in-Charge of the said police station shall grant adequate assistance to the parties to complete the inspection and the process of demarcation. The costs for such police help as well as the costs of inspection and demarcation shall be borne by the present petitioner.

In order to ensure complete justice, a server copy of this order along with a notice of inspection shall be served further on the respondent no.2 and an affidavit of service to that effect shall be filed on the next returnable date along the joint report.

All parties as well as the Officer-in-Charge of the concerned police station shall act on the server copy of this order for the purpose of compliance without insisting upon prior production of a certified copy of the same.

The matter shall next be listed on September 26, 2024 for passing further orders.

(SABYASACHI BHATTACHARYYA, J.)

bp/R.Bhar