

IN THE HIGH COURT AT CALCUTTA
Original Jurisdiction
ORIGINAL SIDE

IA NO. CA/4/2022
In CP/22/1989

IN THE MATTER OF KHEMKA PLASTIC UDYOG LTD. (IN LIQN.)
Vs
GOBINDA BISWAS -VS- OFFICIAL LIQUIDATOR, HIGH COURT, CALCUTTA

BEFORE:
The Hon'ble JUSTICE RAVI KRISHAN KAPUR
Date : 18th January, 2023.

Appearance:

Mr. Sujit Banerjee, Adv.
Mr. Nilay Sengupta, Adv.

Ms. Tanushree Dasgupta, Adv.

The Court:- This is an application for condonation of delay and for a direction on the Official Liquidator to execute the registered sale deed of an immovable property measuring approximately 54 cottahs situated at RS & LR Dag No- 677/1499,679,683 (part) at Mouza: Bangihati, J.L No 21, under Rajyadhar, Gram Panchayet, P.S : Mallickpara, P.S: Sreerampore, District: Hoogly belonging to the company (in liquidation) in favour of the appellant.

By an order dated 17th March, 1990, the company namely, Khemka Plastic Udyog Limited was directed to be wound up. On 10th August, 1990, the

representatives of the Official Liquidator took possession of the factory premises of the company (in liquidation) situated at Bangaihati, Dist. Hooghly, P.S. Sreerampore, P.O.- Dankuni. By an order dated 19th April, 1991, the offer of the applicant as the highest bidder of the assets of the company (in liquidation), was accepted. It is also alleged that the entire sale consideration has been paid by the applicant.

This application has been necessitated due to the fact that notwithstanding a period of more than *twenty* years having lapsed, the applicant has not taken any steps to have the conveyance executed in its favour.

It is submitted by the Official Liquidator that save and except a letter dated 14th March, 1993 written by the applicant to the Official Liquidator to arrange for handing over possession of the assets of the company and the immovable property, no other steps have been taken by the applicant for more than two decades. Moreover the applicant is in breach of clause 12 of the Terms and Conditions of the auction purchase.

I find that, the company was directed to be wound up as far back as on 27th March, 1990. By an order dated 14th September, 1992, the entire assets of the company (in liquidation) were directed to be sold. Thereafter, by orders dated 19 April 1991 and 4 June 1992 the sale of the assets including the immoveable property of the company (in liquidation) were confirmed in favour of the applicant. Notwithstanding a period of more than two decades, the applicant has taken no steps whatsoever to complete the necessary formalities for execution of the conveyance. The terms and conditions of sale provided that the deed of conveyance was to be executed within 6 (six) months from the date of confirmation of sale in favour of the purchaser.

In my view, the applicant has intentionally and deliberately procrastinated the matter. This can only be attributed to some oblique and malafide motive. There can be no reason to justify the delay of the applicant. The ground of not having been able to arrange payment of the stamp duty is inexcusable. In such cases, the discretion of the Court cannot be exercised in favour of tax dodgers and unscrupulous litigants. The applicant is also in breach of the obligations. In

view of the aforesaid, there is no scope of exercising any discretion in favour of the applicant.

Accordingly, CA/4/2022 stands dismissed.

The Official Liquidator is directed to forthwith take possession of all the assets of the company (in liquidation).

The concerned Police Station is also directed to render all possible assistance to the Official Liquidator.

Let this matter appear on 30 January 2023.

(RAVI KRISHAN KAPUR, J.)