

OD 109 & 110

ORDER SHEET
IN THE HIGH COURT AT CALCUTTA
ORIGINAL JURISDICTION
ORIGINAL SIDE

IA NO. CA/6/2023
IN CP/22/1989

IN THE MATTER OF:
KHEMKA PLASTIC UDYOG LTD. (IN LIQN.)
AND
ASHOK KHEMKA
-VS-
THE O/L, HIGH COURT, CALCUTTA

AND

IA NO. CA/7/2024
IN CP/22/1989

IN THE MATTER OF:
KHEMKA PLASTIC UDYOG LTD. (IN LIQN.)
AND
ASHOK KHEMKA
-VS-
THE O/L, HIGH COURT, CALCUTTA

BEFORE:

The Hon'ble JUSTICE SABYASACHI BHATTACHARYYA

Date: 4th July, 2024.

Appearance:

Mr. Soumabho Ghose, Adv.

Ms. Tiana Bhattacharyya, Adv.

Mr. Dilip Kr. Ghosh, Adv.

. . .for the applicant.

Ms. Tanushree Dasgupta, Adv.

. . .for the Official Liquidator.

The Court: Learned counsel for the petitioner contends that in CA 6 of 2023 a scheme for revival of the company has been annexed. Learned counsel seeks a revival of the company in view of the fact that the dues of all the creditors

have been admittedly met from the funds out of the sale proceeds of the assets of the company and as such, there cannot be any hindrance to a revival of the same. Alternatively, the petitioner seeks a permanent stay of the winding up proceeding.

Learned counsel further points out that in the status report filed by the Official Liquidator on April 26, 2023, Clause 9 thereof indicated the fund position of the company as on February 6, 2023 to be Rs.81,458.59p whereas in a subsequent report filed by the Official Liquidator on May 2, 2024, it is seen that the fund position has been reduced to Rs.4,239.59p. It is submitted that such reduction is unexplained.

Learned counsel for the Official Liquidator contends that the reduction in the fund position between February 6, 2023 and May 2, 2024 is due to the Official Liquidator having to meet several expenses from the said funds.

However, I do not find from the subsequent report of the Official Liquidator that the details and particulars of such expenses are disclosed therein.

In view of such *ex facie* discrepancy between the two fund positions between the short span of time from February 6, 2023 to May 2, 2024, the Official Liquidator is directed to file a supplementary status report disclosing in detail the particulars of each of the expenses which have been incurred from the funds of the company-in-liquidation in the meantime.

Such report shall be filed, within an advance copy to the petitioner, on the next returnable date.

Meanwhile, the Official Liquidator shall also treat the scheme annexed to CA 6 of 2023, from page 46 of the said application onwards, as a proposal on the part of the petitioner for revival of the company and file an affidavit on the next

returnable date disclosing the position of the Official Liquidator on such scheme upon consideration of the same.

The matter shall next be listed on August 8, 2024 along with CA 5 of 2023 which has been filed by a third party to the present application for disclaimer. In the meantime, a copy of the current status report of the Official Liquidator dated May 2, 2024 be served on the learned advocate for the petitioner.

(SABYASACHI BHATTACHARYYA, J.)

SP/