2025:DHC:8834-DB

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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

% ***Judgment reserved on: 22.09.2025***

Judgment pronounced on: 08.10.2025

\+ CO. APP. 3/2024, CM APP. 8668/2024 and CM APP. 8670/2024

P C JHALANI & ORS .....Appellants

Through: Mr. Alok Kumar Aggarwal, Ms. Anushruti, Ms. Anushka Sharma, Ms. Snigdha Rajpal, Ms. Aanavi O., Advs.

versus

JHALANI TOOLS (INDIA) LTD & ORS .....Respondents

Through: Ms. Ruchi Sindhwani, Sr. Standing Counsel along with Ms. Megha Bharara, Adv. Mr. Yasharth, Adv. for IDBI

CORAM:

HON'BLE MR. JUSTICE ANIL KSHETARPAL

HON'BLE MR. JUSTICE HARISH VAIDYANATHAN SHANKAR

J U D G M E N T

ANIL KSHETARPAL, J.

1. The issue that arises for consideration in the present Appeal is whether, once a final winding up order has been passed against a Company and the Official Liquidator has taken charge, the Company Court is required to come to the aid of guarantors so as to shield them from recovery proceedings initiated by creditors.

2. The present Appeal, under Section 483 of the Companies Act, 1956, assails the correctness of order dated 21.12.2023 [hereinafter referred to as the "Impugned Order"] passed by the learned Single Judge in CO.APPL. No. 947/2023 in CO.PET. No. 539/1998,

whereby the application filed by the Appellants seeking, *inter alia*, to restrain Respondent No.3/IDBI Bank from proceeding under its Notice dated 02.12.2023 demanding payment of Rs. 252.53 Crores, came to be dismissed.

3. The Appellants are personal guarantors of Respondent No.1 [hereinafter referred to as "the Company"], which was ordered to be wound up by this Court on 18.03.2003 in C.P. No. 539 of 1998. Following the order of winding up, a Provisional Liquidator and subsequently an Official Liquidator [hereinafter referred to as "OL"] were appointed. The Company's assets, comprising six units, have been sold under the supervision of the OL and all sale proceeds distributed in accordance with law.

4. The Appellants, before the learned Single Judge, contended that they had agreed to cooperate with the banks in the sale of units under an alleged One Time Settlement [hereinafter referred to as "OTS"] in 2023 and asserted that they should not be held liable until the OTS proceeds were paid. They argued that sale proceeds from earlier units sold in 2005 and the last unit in 2022 would have sufficed to clear all dues. They further contended that the OL delayed disbursement of funds and that this delay caused the banks to retreat from the OTS, thereby prejudicing the Appellants.

5. The Respondent Bank, in its submissions before the learned Single Judge, contended that no valid OTS had been entered into with the Appellants, and that it had not agreed to any suspension of their liability. It contended that Appellants were never members of the

consortium led by Dena Bank (now Bank of Baroda) and that the Company Court had no role in granting any relief to guarantors. The Bank further submitted that the winding up proceedings had attained finality, with the OL having taken charge, sold all the Company's properties, and distributed the proceeds in accordance with law. It was pointed out that the liability of the guarantors is independent of the Company's liquidation and that proceedings against them could be pursued in appropriate forums. Finally, the Bank submitted that the jurisdiction of the Company Court is limited to winding up the Company, realising its assets, settling admitted claims, and distributing the proceeds, and that it cannot intervene to shield guarantors once the winding up process is complete.

6. The learned Single Judge, *vide* the Impugned Order dated 21.12.2023 dismissed the Appellants' Company Application No. 947/2023 noting that the dispute raised by the Appellants regarding the notice dated 02.12.2023 by IDBI Bank had no concern with the pending winding up proceedings. The learned Single Judge observed that the application was an independent cause of action between the guarantors and the Bank, and therefore, no directions could be issued by the Company Court in favour of the guarantors. The Court granted the Appellants liberty to pursue other remedies available to them in law and dismissed the application.

CONTENTIONS OF THE APPELLANTS

7. Learned counsel for the Appellants submitted that:

i. The Appellants had allegedly entered into an OTS with

the IDBI Bank in 2023 and agreed to cooperate with the Bank in recovery of dues;

ii. Payment under the OTS was not made within the stipulated time, which they attributed to delays in disbursement by the OL, and contended that they should not be made to suffer for circumstances beyond their control;

iii. Sale proceeds of earlier units sold in 2005 and the last unit sold in 2022 should have been sufficient to discharge the Bank's claims. They further contended that, had the properties been sold later, higher realisations would have been secured, sufficient to clear creditors' dues *[As per material on record, the OL sold 5 out of 6 properties of the Company by the year 2005 and realised Rs. 3.85 crore, whereas the last property was reportedly sold for Rs. 43 crores against a Reserve Price of Rs. 23.56 crores in the year 2022]*;

iv. In view of the above, the Appellants contended that the Bank's notice dated 02.12.2023 demanding Rs. 252.53 crores was premature and oppressive, and that the Company Court ought to restrain recovery proceedings to protect their interests.

CONTENTIONS OF THE RESPONDENTS

8. *Per contra*, learned counsel for the Respondent/IDBI Bank submitted that:

i. No valid OTS had been entered into with the Appellants, and the Bank has not agreed to any suspension of the guarantors'

liability.

ii. The Appellants were never members of the consortium led by Dena Bank, and the Company Court had no role in granting any relief to guarantors.

iii. The Company has been under liquidation since 18.03.2003 (C.P. No. 539/1998). The winding up proceedings had attained finality, and the OL had taken charge, sold all six properties, and distributed the proceeds in accordance with the orders of this Court, including the orders dated 25.05.2011 and 13.08.2023 (with cut-off date for claims as 18.03.2003);

iv. Claims of IDBI Bank were adjudicated, and part amounts already disbursed by the OL. The liability of guarantors is independent of the Company's liquidation, and proceedings against them may be pursued in appropriate forums, as confirmed by the Supreme Court in ***Lalit Kumar Jain v. Union of India***, (2021) 9 SCC 321;

v. IDBI Bank was not a party to C.A. No. 677/2023, and no directions were ever issued against it therein;

vi. The present Appeal, based on assertions of OTS and valuation, raises no ground to interfere with the Impugned Order, as the Company Court's jurisdiction is limited to winding up, realisation of assets, settlement of claims, and distribution of proceeds.

ANALYSIS & FINDINGS

9. This Court has carefully considered the rival submissions and perused the material on record. The primary issue for consideration in this Appeal is whether the Company Court is required to come to the aid of guarantors once a final winding up order has been passed against a Company and the OL has assumed charge.

10. The purpose of the Company Court under the Companies Act, 1956, is limited and well-defined. Its jurisdiction is to supervise the winding up of a company, ensure the realisation of its assets, adjudicate claims of creditors, and oversee the distribution of proceeds. The Company Court is not a forum for shielding guarantors from recovery proceedings once the liquidation process has attained finality.

11. In the present case, the winding up of Respondent No.1/ Jhalani Tools (India) Ltd. was ordered by this Court on 18.03.2003. A Provisional Liquidator and subsequently an OL were appointed. The Company's six properties have been sold under the supervision of the OL, and proceeds have been distributed to secured creditors and workmen in accordance with Court directions, including the orders dated 25.05.2011 and 13.08.2023. The cut-off date for adjudication of claims was fixed as 18.03.2003.

12. The Appellants, who are personal guarantors of the Company, sought to restrain IDBI Bank from recovering a sum of Rs. 252.53 crores under a purported OTS in 2023. The material on record indicates that the purported OTS was never implemented, and no

payments were made pursuant thereto within the stipulated time. The assertion that the delay in disbursement by the OL caused prejudice to the Appellants is not a ground that falls within the jurisdiction of the Company Court.

13. The liability of guarantors is independent of the Company's liquidation. This principle is well-established in law, as held by the Supreme Court in ***Lalit Kumar Jain*** *(supra)* which states that discharge of the principal borrower does not discharge the liability of personal guarantors. Accordingly, guarantors cannot invoke the jurisdiction of the Company Court to shield themselves from recovery proceedings after the winding up of the company has been completed.

14. It is also noted that IDBI Bank was not a party to C.A. No. 677/2023, and no directions were issued against it therein. The Appellant's reliance on the alleged OTS or higher valuation of properties sold in 2022 does not alter the settled fact that the winding up proceedings have concluded, the Bank's claims have been adjudicated, and proceeds distributed in accordance with Court orders.

15. The Appellants are free to pursue remedies available to them in other fora, such as the Debts Recovery Tribunal or Civil Courts, to challenge any action taken by the Bank against them personally. However, this Court cannot exercise the Company Court's jurisdiction to protect guarantors once the winding up process has been completed.

16. In the circumstances, there is no merit in the Appellant's contention that the Company Court should intervene to restrain the Bank from recovery proceedings. The Impugned Order correctly

observes that proceedings against guarantors are independent of the winding up proceedings.

CONCLUSION

17. In view of the foregoing discussion, the Appeal is devoid of merit and is accordingly dismissed. Pending applications also stand dismissed.

ANIL KSHETARPAL, J.

HARISH VAIDYANATHAN SHANKAR, J.

OCTOBER 08, 2025
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