

**IN THE NATIONAL COMPANY LAW TRIBUNAL,
DIVISION BENCH – II, CHENNAI**

IA(IBC)/1387(CHE)2022 IN TCP/70/IB/2017

*(filed under Section 35(1)(b)&(d) and Section 60(5) of the
Insolvency & Bankruptcy Code, 2016*

*In the matter of **M/s. RRP Housing Private Limited***

Ms. Priya S. Anand,
Liquidator of
M/s. RRP Housing Private Limited,
No.3, Apex Plaza, 5th Floor,
Nungambakkam High Road,
Chennai-600 034

... Applicant

-Vs-

1. Mr. Mahadevan,
No. 119, Indian Bank Building,
Sathya Tiles, Ground Floor,
Pari Nagar, Jafferkhanpet,
Ashok Nagar, Chennai-600 083
2. Mr. N. Padmanabhan,
Erstwhile Director of M/s. RRP Housing Pvt. Ltd.,
No. 119/1, Zeroffer Tower,
2nd Floor, Jawaharlal Nehru Salai,
Jafferkhanpet,
Chennai-600 083
3. Mr. P. Thamizh,
Erstwhile Director of M/s. RRP Housing Pvt. Ltd.,
No. 119/1, Zeroffer Tower,
2nd Floor, Jawaharlal Nehru Salai,
Jafferkhanpet,
Chennai-600 083
4. Mr. P. Vigraman,
Erstwhile Director of M/s. RRP Housing Pvt. Ltd.,
No. 119/1, Zeroffer Tower,
2nd Floor, Jawaharlal Nehru Salai,
Jafferkhanpet,
Chennai-600 083



5. AKS Housing Development Company Pvt. Ltd.,
New No. 12, Old No. 17, Balaji Avenue 1st Street,
Flat No. F1 AKS Dhuruva,
T. Nagar, Chennai-600 017

... Respondents

Order Pronounced on **15th June, 2023**

CORAM:

SANJIV JAIN, MEMBER (JUDICIAL)
SAMEER KAKAR, MEMBER (TECHNICAL)

For Applicant : Mr. N.P. Vijay Kumar, Advocate
Mr. R. Pradeep, Advocate
Mr. M. Navaneethakrishnan, Advocate
For Respondents : Mr. V.V. Sivakumar, Advocate for R1
Mr. N.V. Balaji, Advocate for R2 & R3

ORDER

Per: SANJIV JAIN, MEMBER (JUDICIAL)

The Liquidator of the Corporate Debtor **M/s. RRP Housing Private Limited** has filed an application under Section 35(1)(b)&(d) and Section 60(5) of the Insolvency & Bankruptcy Code, 2016 ("**IBC**") seeking the following reliefs:

"It is humbly prayed that this Hon'ble Tribunal may be pleased to direct the Respondent No. 1 who is unauthorizedly having the title deeds of the schedule property, to hand over the title deeds of the said property to Applicant and thereby render justice."



2. The facts giving rise to the application are that an application under Section 7 of the IBC, 2016 was filed by M/s. Sri Adinath Enterprises, Financial Creditor for initiation of Corporate Insolvency Resolution Process ("**CIRP**") against the Corporate Debtor. The CIRP was initiated vide order dated 29.12.2017. This Tribunal vide order dated 04.04.2019 thereafter ordered for liquidation of the Corporate Debtor. The Liquidator filed the applications seeking co-operation from the erstwhile directors viz., Respondent No. 2 to 4 as detailed in Para-4(a) of the application including handing over the original title deeds of the land at Maraimalai Nagar i.e. land measuring 216.22 cents. The title deeds were never provided to the RP/Liquidator. The Liquidator went ahead with the liquidation process and brought the property to sale. After getting the valuation carried out from the Registered Valuer, the Liquidator conducted the public auction through e-auction process. 5th Respondent was the successful bidder for Rs.4,25,00,000/- (Rupees Four Crores Twenty Five Lakhs only) who had the by 16.03.2022.

3. It is alleged that despite the orders of the Tribunal, Respondent No.2 to 4 never came forward to deposit the title documents of the schedule property. To that effect, the Liquidator caused a public announcement that the title documents of the property are not traceable. He got the Sale Certificate Registered



on 05.05.2022. It is stated that suddenly the Applicant/Liquidator received notice from an advocate representing 1st Respondent that the title deeds are with 1st Respondent. The Liquidator sent reply to the notice seeking details of the transactions and the title documents but the 1st Respondent never produced the title documents of the property. The Liquidator found that no charge with respect to the subject property was registered with the Registrar of Companies. The 1st Respondent never filed a claim before the Liquidator.

4. Notice of the Application was served upon the Respondent No. 1 but he did not appear. On 01.06.2023, Sri. V.V. Sivakumar, Counsel appeared for the Respondent No. 1 and requested for adjournment which was allowed. On 05.06.2023, he again appeared for the Respondent No.1 but stated that he has not yet received the vakalat from Respondent No.1, on 12.06.2023 withdrawn himself from the matter. On his request, time was granted till today to file vakalat and makes submissions. Today, one Ms. Akshaya Giridharan appeared for the Respondent No.1 but despite, the case was passed over in the morning and taken up again at 3.30 P.M., he neither filed the vakalat nor the reply/counter. This made the Tribunal close the right of the Respondent No. 1 to file reply/counter.



5. Respondent No.2 and 3 filed the reply/counter stating that the Applicant/Liquidator vide letter dated 10.05.2019 had requested certain documents form the promoter. Since, the title deeds of the land owned by the Company at Maraimalai Nagar were in the premises locked and sealed by CMDA, the same could not be provided. A letter to this effect was written to the Applicant/Liquidator on 20.06.2019. It is stated that the title deeds of the land owned by the Company at Maraimalai Nagar was in possession of a Financier of the Company. On 13.08.2019 the office of the company was desealed and unlocked by CMDA and the Applicant collected all the documents which he wanted. It is stated that the Respondent had informed the Applicant vide email dated 03.10.2019 about the scheme under Section 230 of the Companies Act, 2013. However, no effort was made by the Applicant to arrive at the scheme or compromise or arrangement under Section 230 of the Companies Act, 2013 till date. It is alleged that in the public notice of e-auction, the extent of land was mentioned as 54,365 square feet whereas in the auction, 94,184 square feet land was sold for the same base price. It is stated that the Respondents have filed the applications for setting aside the auction sale of the land belonging to the Company at Maraimalai Nagar which are pending adjudication.

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6. It is stated that in the counter/reply dated 15.09.2020 in IA/246/IB/2020, they had informed that the title deeds of the property had been deposited with the Financiers including Respondent No.1 for availing loan from the company which fact was also recorded by the Tribunal in the order dated 04.01.2021.

7. We have heard Ld. Counsel Mr. N.P. Vijay Kumar for the Applicant/Liquidator and Ld. Counsel Mr. N.V. Balaji for the erstwhile Directors i.e. Respondent No. 2 & 3 and perused the record.

8. In the instant case, CIRP of the Corporate Debtor was initiated vide order dated 29.12.2017. The order of liquidation was passed on 04.04.2019. During liquidation, the Liquidator identified a property of the Corporate Debtor in liquidation i.e. land in Maraimalai Nagar, details given in para-5 of the application. However, the Liquidator could not get the title deeds of the property. He put the property into e-auction. Respondent No.5 was the successful bidder of the property. After getting the entire sale consideration, the Liquidator confirmed the sale. The Liquidator however could not get the title deeds of the property from the Respondents despite directions from the Tribunal to Ex-Directors. The Liquidator also caused the public announcement to record that the title documents of the property are not traceable.



9. Although the Liquidator received a notice from the counsel representing Respondent No.1 that the title deeds are with Respondent No.1 which fact is also stated by Respondent No. 2 & 3 in the reply/counter but till date, Respondent No.1 neither produced any title deed nor got registered the charge with the Registrar of Companies in respect of the subject property nor filed **any claim**. Notice of the application was also given to the Respondent No.1 to appear and make submissions in the matter but despite having given number of opportunities, the Respondent No.1 neither appeared nor filed the title documents of the property nor made any submissions in this regard.

10. This leads to an inference that Respondent No.1 has nothing to say in the matter. Since no charge in respect of the subject property has been registered in the Registrar of Companies and that the Liquidator has already caused public announcement to the effect that the title documents of the subject property are not traceable, unrebuttable presumption which can be drawn in the present case is that either Respondent No.1 has no title deeds of the property with him.

12. With the above observations, the application is **disposed off**. Applicant is directed to further proceed in the matter presuming that no title deeds of the subject property are with



Respondent No.1 and title deeds of the subject property are not traceable.

- Sd -

SAMEER KAKAR
MEMBER (TECHNICAL)

Suguna

- Sd -

SANJIV JAIN
MEMBER (JUDICIAL)