

(1960) 06 CAL CK 0018

Calcutta High Court

Case No: Matter No. 8 of 1960

In Re: Baradone Coal Conobrn
Ltd.

APPELLANT

Vs

RESPONDENT

Date of Decision: June 21, 1960

Citation: 64 CWN 991

Hon'ble Judges: Law, J

Bench: Single Bench

Advocate: R.C. Deb with S.C. Deb, for the Appellant; Ranadeb Chaudhuri, for the Liquidator, for the Respondent

Final Decision: Dismissed

Judgement

Law, J.

This application is wholly misconceived and is bound to be dismissed with costs. Further the applicant has got no locus standi. The reasons for dismissing this application are as follows:

The applicant claims to have become vitally interested in the said company by reason of agreeing to buy 100 fully paid shares of Rs. 10/- each in the said company, namely, Barabone Coal Concern Ltd. Annexure A to the petition shows that the applicant only intended to purchase the said shares and no more. There is no averment in the petition that he purchased the shares but from the Bar it was said that the applicant has paid for and has got shares from the registered shareholders. But in my view it does not help the applicant at all because a transfer is only possible after previous sanction from the Liquidator. So I hold that the applicant has got no interest in the shares. But then the applicant submits that under sec. 227 (1) he applied for sanction to the Liquidator and Annexure A to the petition being letter dated 16 December 1958 is his application which, of course, is denied by the Liquidator, respondent in this petition. There is no satisfactory proof that the letter of 16th December 1958 was sent or received by the Liquidator except that a

certificate of posting of a letter addressed to the Liquidator has been produced in Court. Then the question arises as to whether this applicant can at all apply for such sanction to the Liquidator. In my opinion, he is not so entitled; only the shareholder transferor, in my opinion, can apply to the Liquidator for transfer of his share. The Liquidator, in my opinion, is not bound to take any notice of such an application from the outsiders. Here, of course, the Liquidator has denied having received any such letter. Further, the Liquidator's case is that the company was fully dissolved and he is no longer the liquidator of the company. Therefore, I hold that the applicant is not entitled also to apply under sec. 209H (4) proviso and sec. 243, nor is he entitled to apply under sec. 213.

The application also seems to me not to be a bona fide one. Looking at the verification of paragraphs 7 to 12 in the petition it appears that these statements were based on the result of searches in the office of the Registrar of Companies But the statement contained in those paragraphs appear to be contrary to the records. I will simply give one instance. The records in the office of the Registrar of Companies about this company show that the company was running at a loss for several years whereas I find it has been stated in the petition that it was a very sound concern. This, I think, is sufficient to dispose of this application.

2. I am unable to rely on this petition. In my opinion, the petition does not disclose any case.

3. The application is dismissed with costs. Certified for Counsel.