

IN THE HIGH COURT OF DELHI AT NEW DELHI

SUBJECT : WINDING UP

Co.Ex.A.No. 1/1991

Date of decision: 30th September, 2008.

Prestige Finance (P) Ltd. ...

Petitioner
Through: None

VERSUS

Shri Krishan Pratap Singh and Ors.

Respondents
Through: Mr. S.K. Luthra, Adv. for the OL

GITA MITTAL, J(Oral)

1. By this execution petition, the decree holder sought execution of a judgment dated 21st March, 1984 passed in CA No. 258/1974 for the sum of Rs.30000/- with interest at the rate of 6% per annum till realisation. As per the memo of parties the judgment debtors are shown as residents of Village and P.O. Kishni in Distt. Mainpuri in the State of Uttar Pradesh. Repeated efforts to effect service on the judgment debtors since 13th January, 1992 have remained unsuccessful. Consequently by an order passed on 16th April, 1998 the publication of the citation for service of the respondents was directed.
2. On 9th September, 1998 it was recorded that the judgment debtors stood served by publication and had not put in appearance. Consequently warrants of possession were directed to be issued against the judgment debtors through the District and Sessions Judge, Etawa, U.P. These warrants of attachment were returned unexecuted. The report on the warrants of attachment in respect of the judgment debtor no. 1 was that he had expired.
3. So far as the judgment debtor no. 2 was concerned, it was reported that his house was found locked and he had left the premises more than one year ago. No information with regard to his whereabouts was known ever since.
4. The legal heirs of the deceased judgment debtor no. 1 are concerned, the same were allowed to be brought on record by an order passed on 13th September, 1999. However despite repeated efforts made to serve these legal heirs, they have not been served till date.

5. In this background on 5th February, 2002 this court recorded the submission of learned counsel for the official liquidator that the official liquidator was not possessed of the addresses of the judgment debtors and that rather than issuing futile fresh warrants of attachment, it would be worthwhile for the official liquidator to ascertain their addresses. A prayer was made for adjourning the matter sine die with liberty to revive as and when necessity to do so arises. This petition has remained pending at this stage since then.

6. A statement is made today by learned standing counsel for the official liquidator that it has not been possible to ascertain the addresses of the judgment debtors. Certainly keeping this petition pending in this background is an exercise in futility. In fact public money is being expended and public servants are being called upon to chase persons whose whereabouts are not known with any measure of certainty. The office of the official liquidator has not been able to provide addresses of the judgment debtor no. 2 for a period of almost 16 years while the addresses of the legal heirs of the judgment debtor no. 1 are also not known with any measure of certainty. Accordingly this petition is dismissed.

Sd./-
GITA MITTAL, J

September 30, 2008