

OD-17

IN THE HIGH COURT AT CALCUTTA
Civil Appellate Jurisdiction
ORIGINAL SIDE

APOT/62/2025
WITH CP/381/2005
IA NO: ACO/1/2025

MESSERS GLOBAL FINANCE CORPORATION LIMITED
VS
RESERVE BANK OF INDIA

BEFORE:

The Hon'ble JUSTICE ARIJIT BANERJEE

And

The Hon'ble JUSTICE OM NARAYAN RAI

Date :16th April, 2025.

Appearance:
Mr. Aniruddha Mitra, Sr. Adv.
Mr. Anirban Gupta, Adv
..for the appellant

Mr. D.K. Kundu, Adv.
Mr. A. Basu, Adv.
..for the R.B.I.

The Court:- By consent of the parties, the appeal and the connected application are taken up for hearing.

An order dated February 5, 2025, passed by a learned Judge in IA NO: CA/5/2023 in CP/381/2025 is under challenge in this appeal.

The brief facts of the case are that the appellant company used to carry on business as a non-banking finance company. It appears that the appellant raised monies from a large number of people across India. However, since the appellant did not possess the requisite licence, the Reserve Bank of India initiated proceedings under Section 45(M)(C) of the Reserve Bank of India Act, 1934, for liquidation of the appellant company.

The learned Company Court admitted the winding up petition. The company appealed. A Co-ordinate Bench of this Court set aside the order for winding up of the appellant company and permanently stayed the winding up petition on the following conditions:

- i. *“The Company would carry on business after amendment of the Articles and Memorandum of Association by deleting the object to carry on non-banking finance business. Before commencement of any business they must amend their memorandum and Article of Association and such exercise must be done under the active supervision of the learned Special Officer, who would continue until further orders to be passed by the learned Company Judge.*
- ii. *The Reserve Bank of India would discharge the security and pay the proceeds to the Special Officer. The Special Officer would prepare a list of creditors being the small depositors having deposit upto Rs. 25,000/-. In case there is any shortfall, those depositors would be paid pro-rata.*
- iii. *The payment must be made on the basis of the principle amount only for the time being.*
- iv. *After payment to the small depositors, if any money is still left, the Special Officer would invest with the Reserve Bank of India in a suitable security.*
- v. *After disbursement of the claims of the small depositors, the Special Officer would stand discharged subject to any further order to be passed by the learned Company Judge.*

vi. *The application for sanction of scheme pending before the Division Bench is sent to the learned Company Judge for being heard and disposed of. His Lordship would, however, wait till the disbursement is complete and a report is filed by the Special Officer to the said effect.*

vii. *Any further direction in the matter including the discharge of the Special Officer would be obtained from the learned Company Judge.*

The Division Bench passed an order restraining the Income-tax Authorities from taking any steps. Such order is vacated. The Income Tax Authorities would be free to take any action against the Company or its Directors in accordance with law.

Similarly, the Company is also at liberty to defend such proceeding.

It is further made clear that the Bank account of the Company would only be operated by the Special Officer and nobody else unless and until the matter is reconsidered by the learned Judge in the application for sanction of scheme.”

Learned advocate for the appellant says that all the small investors i.e. the persons who deposited money upto Rs. 25,000/- and who applied to the Special Officer, have been paid off by the Special Officer. Learned Advocate for Reserve Bank of India admits the same.

Learned Advocate further says that the Special Officer is still holding a substantial sum of money. This money can be utilized to pay off the other investors who deposited more than Rs. 25,000/-. With such a prayer, the appellant company had approached the learned Single Judge. The learned

Judge recorded that there are about 177 depositors who deposited sums above Rs. 25,000/-. However, since the direction of the Division Bench was to pay off small investors and nothing was said about the other investors, the learned judge felt constrained and did not pass any order directing the Special Officer to pay off the remaining investors from the money that he is holding. Hence this appeal.

Learned Advocate for the Reserve Bank of India very fairly submits that the Reserve Bank has no objection if the remaining investors are paid off using the fund held by the Special Officer.

Therefore, we pass an order in terms of prayers (d), (e) and (f) of the stay petition which read as follows:

“d) The Learned Special Officer appointed in C.P. No. 381 of 2005 be directed to disburse an amount of Rs. 56 lakhs or such sum as may be available/ directed for payment to the depositors above Rs. 25,000/- who satisfactorily lodged their claim on a pro-rata basis in comparison to the total amount deposited by such individual depositors, after compliance of all formalities;

e) The Learned Special Officer be granted liberty to take his remuneration from the funds lying in his hands;

f) The disbursements be made within a period of 8 months from the date of the order.”

Learned Advocate for the appellant says that learned Special Officer has prepared another report dated March 18, 2025, which is filed in Court today. Let the same be kept with the records.

From the said report, we find that the Special Officer is desirous of being discharged from the position of Special Officer in view of his advanced age. It is, however, recorded in the report after allowing for the arrear remuneration of the Special Officer in terms of the earlier order of the Division Bench, a sum of approximately Rs. 56,00,000/- is standing in the name of the Special Officer as on March 31, 2025.

We record our deep appreciation for the work that the learned Special Officer has done which has saved several families. However, since he is fully acquainted with the facts and circumstances of the case, we would request him to continue as joint Special Officer and we appoint Mr. Anirban Ghosh, learned Advocate on record for the appellant to act as Special Officer without remuneration along with the present Special Officer. It is understood that Mr. Ghosh, being a young advocate, will duly assist the present Special Officer and take the workload on himself under the guidance of the present Special Officer.

The appeal and the connected application stand disposed of accordingly.

(ARIJIT BANERJEE, J.)

(OM NARAYAN RAI, J)