

"The Hon'ble Special Court passed an order rejecting the proposal of the Custodian to permit sale of Killick Nixon as routine shares on the ground that it was premature as the Custodian was bound to invite bids as directed by Hon'ble Supreme Court. The Custodian was authorized to reject the offers received by him and to return the earnest money. The Court was of the opinion that Controlling Shares could not be sold on the principle of valuation which would apply to routine shares because the Controlling Shares may stand on a different footing than routine shares and therefore on the administrative side Custodian was directed to submit a Report of a Valuer which was obtained by Custodian."



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IN THE SPECIAL COURT CONSTITUTED UNDER
THE SPECIAL COURT (TRIAL OF OFFENCES RELATING TO
TRANSACTIONS IN SECURITIES) ACT, 1992

MISC. APPLICATION NO. 437 OF 2002

IN

MISC. PETITION NO. 64 OF 1998

The Custodian

..Applicant.

Vs.

Union of India & Ors.

..Respondents.

Mr. S. Rustomji with Mr. M.S. Doctor i/b P.M. Mithi & Co. for the Applicant.

Mr. S.G. Mandrekar for Respondent No.2.

Mr. S.D. Parikh with Mr. S. Mehta i/b M. Ranchhodas & Co. for Respondent No.3.

Ms. Neena Kapadia i/b Pandya Gandhi & Co. for Respondent No.4.

CORAM: S.H. KAPADIA, J.
JUDGE, SPECIAL COURT

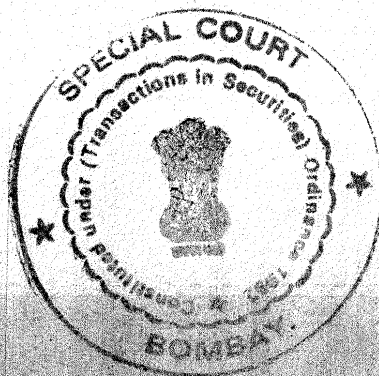
DATE : 16TH AUGUST, 2002

P.C.

1. By Order dated 17th August, 2000 passed by this Court in Misc. Petition No. 64 of 1998, the Special Court approved the Scheme for sale of shares belonging to notified parties including Dhanraj Mills - Respondent No.3 herein. That Order came to be challenged before the Apex Court vide Civil Appeal 5812 of 2000. In the Order of the Special Court, three categorizations were laid down for sale of shares viz. routine shares, bulk shares and



controlling shares. In the Order of the Special Court, the criteria for these three categorizations was laid down. In the Order of the Special Court, the modality of sale for the three categorization of shares was also laid down. However, when the matter came before the Apex Court, it was laid down by the Supreme Court that in respect of sale of controlling block, the third method will have to be first adopted viz. the norms for sale of controlling block of shares and it is only if the Court finds that by adopting that method the highest price is not available then it will have to adopt the second method relating to sale of bulk shares under which offers were to be made to institutional buyers and also to non-institutional buyers including the Management of the Company and it is only if this method failed that the shares could be sold as routine shares through the Disposal Committee. Now, in the present case, according to the Application, the Custodian followed the third method which, according to him, does not fetch the best possible price and, therefore, by this Application, he has requested the Court to permit him to sell the controlling block of shares of Killick Nixon Ltd. through the ^{first} ~~third~~ method viz. as routine shares. However, he has not explored the second method of inviting offers from institutional and non-institutional buyers. In the circumstances, I direct the Custodian to first explore the second method and since the second

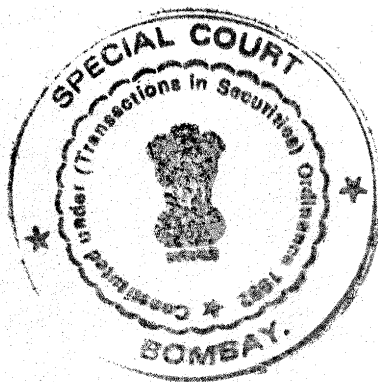


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method has not been adopted till today, it is not possible for this Court to direct the sale of controlling shares as routine shares. In the light of what is stated hereinabove and in view of the Judgment of the Supreme Court, this Application is dismissed as premature. However, this Order will not prevent the Custodian from adopting the second method ^{applicable to Block holding.} It is also made clear that under the Scheme formulated by this Court, sale of shares coming under block or controlling categories will have to be ultimately approved by this Court.

Thus

2. ~~However~~, the Custodian is authorized to reject the offers received by him and to return the earnest money. In the present case, this Court, on its administrative side, has directed the Custodian to submit a report of a Valuer particularly in view of the fact that the Court was of the opinion that controlling shares could not be sold on the principle of valuation which would apply to routine shares because the controlling shares may stand on a different footing than routine shares. The Custodian has obtained report. That report is submitted to this Court in a sealed cover. However, I hereby authorize the Custodian to pay the fees of Valuer from the attached accounts of Dhanraj Mills.



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3. Application is accordingly disposed of.



Applied on 2/9/02
Pages (1)
Examined by Mr. Tilkar
Working with Mr. Aikar
Delivered on 9/9/02
18/9/02

Certified to be a true copy
M. 9/9/02
OFFICER ON SPECIAL DUTY
Office of the Special Court
Bombay.

9/9/02