
(2023) 12 NCLT CK 0056

In the National Company Law Tribunal

Case No : IA Nos.2935 Of 2023 in CP (IB) No.130/Chd/HP/2018

Bhagat Ram Motorways Pvt. Ltd Vs

Date of Decision : 22-12-2023

Acts Referred:

Insolvency and Bankruptcy Code, 2016 — Section 36(3)(a), 60(5)
National Company Law Tribunal Rules, 2016 — Rule 11

Citation : (2023) 12 NCLT CK 0056

Hon'ble Judges : Harnam Singh Thakur, Member (J); L.N. Gupta, Member (T)

Bench : Division Bench

Advocate : Pulkit Goyal, Harsh Garg, Atul V. Sood

Final Decision : Dismissed

Judgement

Harnam Singh Thakur, Member (Judicial)

1. The present application has been filed by the applicant/State Bank of India under Section 60(5) of the Insolvency and Bankruptcy Code, 2016 read with Rule 11 of the NCLT Rule, 2016 against the respondent/liquidator praying that the e-auction fixed for 26.12.2023 by the respondent may be stayed in the interest of justice and respondent/liquidator may be restrained from putting the following assets under auction:

S.No

Asset

I

Workshop & showroom. building and land beneath it at Rakkar Colony Una

II

Guest House and land beneath it at Rakkar Colony Una

According to the applicant, the aforesaid assets do not constitute the liquidation estate and therefore, may not be auctioned prior to the disposal of IA No.451/2022 and 431/22 which are pending before this Adjudicating Authority.

On the other hand, the learned counsel for the respondent/liquidator has raised the objection about the maintainability of the present application contending that the applicant/bank is a part of the Stakeholders Consultative Committee (SCC) with 38.23% voting share and it has not participated in the relevant meeting of SCC despite notice in which the decision for auction of the property on 26.12.2023 was taken. The learned liquidator further stated that the above-said property is evidenced in the name of the CD in the audited balance sheets and hence, the same is part of the liquidation estate under Section 36(3)(a).

2. After hearing the learned counsel for the parties, it is noted that so far as the IA No.431/22 is concerned filed by the liquidator, the same has been withdrawn by the liquidator vide order dated 21.12.2023, and IA No.451/22 filed by the applicant has already been withdrawn vide order dated 21.12.2023.

3. It is pertinent to mention that the applicant is a member of SCC and has instead of deciding this issue of property being liquidation estate or not. In the SCC meeting itself, has preferred to file the present application. The learned counsel for the applicant was given option by this Adjudicating Authority to withdraw the present application like IA No.451/22 and consider/resolve the matter within the SCC meeting, but it is stated by the learned counsel for the applicant that he has no instruction to do so.

4. In these circumstances, the present application is pre-mature and therefore not maintainable before this authority, hence dismissed. However, we refrain ourselves from imposing costs upon the Applicant Bank.