(2020) 08 NCLT CK 0031

In the National Company Law Tribunal

Case No : Interlocutory Appeal No. 335 Of 2020 In Company Petition (IB) No. 294/7/Hdb Of 2017

Siripuram Developers Private Limited And Ors — APPELLANT

Vs

Andhra Bank (Now Merged With Union Bank Of India) And Ors — RESPONDENT

Date of Decision : 20-08-2020

Acts Referred:

Indian Contract Act, 1872 — Section 128, 134
Insolvency And Bankruptcy Code, 2016 — Section 33, 60(5), 60(5)(C)

Citation : (2020) 08 NCLT CK 0031

Hon'ble Judges : K. Anantha Padmanabha Swamy, J

Bench : Single Bench

Advocate : G. Aniketh Reddy, Krishna Grandhi, Sutanu Sinha, Nirav Shah, Alay Razvi

Final Decision : Disposed Of

Judgement

K. Anantha Padmanabha Swamy, Member (J)

1. The present Application bearing IA No. 335/2020 in CP (IB) No. 294/7/HDB/2017 is filed by the above said Applicants in the matter of M/s. IVRCL Limited, under section 60(5) of the Insolvency and Bankruptcy Code, 2016, inter- alia as under:-

a. To set aside the impugned possession notice dated 11.03.2020 and direct the Respondent No. 1 Bank to not take any coercive steps as against the Applicant companies till the closure of liquidation proceedings.

2. The Applicant further prayed to pass the following interim-reliefs:-

a) Suspend the operation of the possession notice dated 11.03.2020 and any consequent coercive steps; pending the disposal of the present application;

b) Direct the Liquidator to submit the terms of the biding proposal by Gabs

Megacorp and accepted by the Corporate Debtor;

c) Direct the Liquidator to disclose the amounts set to be received by Respondent No. 1 Bank as per the binding proposal by Gabs Megacorp and accepted by the Corporate Debtor; and

d) Direct the Liquidator to place on record all the discussions involving the approval of the proposal of Gabs Megacorp Limited, especially where Respondent No. 1 Bank was a party, pending the disposal of the interim application and pass any other order or orders, as it may deem fit.

3. The brief facts of the case as submitted by the Applicants are as under:

a. That this Adjudicating Authority vide its order dated 23.02.2018, admitted the Application filed by the State Bank of India for initiating the Corporate Insolvency Resolution Process (CIRP) against the Corporate Debtor i.e., M/s. IVRCL Limited and appointed Mr. Sutanu Sinha as Interim Resolution Professional. Later, he was confirmed as Resolution Professional for the duration of the CIRP of the Corporate Debtor.

b. That Since no resolution plan was approved during the CIRP, the Adjudicating Authority vide its order dated 26.07.2019 read with corrigendum order dated 31.07.2019, passed an order of liquidation under section 33 of the Code and appointed Mr. Sutanu Sinha as the Liquidator of the Corporate Debtor.

c. That the Applicant Companies provided corporate guarantees vide guarantee agreements dated 26.12.2013 for the loan facility availed by the Corporate Debtor from the Applicant Companies. That pursuant to the guarantee agreements, the Applicant Companies mortgaged certain properties to the Respondent No. 1 Bank as security to the loan facility availed by the Corporate Debtor. The following are the properties mortgaged to the Respondent No. 1 bank.

Sl. No.

Applicant

Details of Property Mortgaged

1

Siripuram Developers Private Limited

28.22 Acres situated in Koonimedu revenue village under Markkkanam sub register office in Villupuram

2

IVR Prime Developers (Tuni) Private Limited

22.33 Acres situated in Koonimedu revenue village under Markkkanam sub register office in Villupuram District

3

Tirumani Developers Private Limited

4.74 Acres situated in Koonimedu revenue village under Markkkanam sub register office in Villupuram District

4

IVR PUDL Resorts & Clubs Private Limited

20.65 Acres situated in Koonimedu revenue village under Markkkanam sub register office in Villupuram District

d. That the Applicants being the guarantors of the Corporate Debtor aggrieved by the arbitrary and illegal actions of the Respondent No. 1 Bank in issuing a Demand Notice dated 18.12.2019 and more specifically Possession Notice dated 11.03.2020, without awaiting the sale of liquidation of the Corporate Debtor as a going concern where the Respondent No. 1 Bank is receiving substantial amounts and scuttling the sale of liquidation of the Corporate Debtor as a going concern as the Corporate Debtor holds majority shares in the Applicant Companies.

e. That unsuccessful resolution applicant, First Global Finance Pvt. Limited filed an appeal, Company Appeal (AT) (Ins.) Nos. 918-919 of 2019 challenging the order of liquidation before the Hon'ble NCLAT. It is submitted that the Hon'ble NCLAT vide interim order dated 06.09.2019 directed that the liquidator will ensure that Company remains a going concern collate the claim, justify though in accordance with law and proceeded with in terms of the decision of this appellate Tribunal passed in Company Appeal (AT) (Insolvency) No. 224 of 2018 in the matter of Y. Shivram Prasad Vs. S. Dhanapal & Ors. on 27th February, 2019."

f. That in compliance with the orders of the Hon'ble NCLAT, the Liquidator informed the National Stock Exchange vide letter dated 03.03.2020 found a bidder, one M/s. Gabs Megacorp Limited to sell the Corporate Debtor as a going concern for Rs. 1654.77 crores.

g. That the Respondent No. 1 Bank being a financial creditor of the Corporate Debtor without awaiting the sale of liquidation of the Corporate Debtor as a going concern where the Respondent No. 1 Bank is receiving substantial amounts and scuttling the sale of liquidation of the Corporate Debtor as a going concern as the Corporate Debtor holds 100% shares in the Applicant Companies has arbitrarily and illegally proceeded to issue the demand notice only with an intention to scuttle the liquidation of the Corporate Debtor as a going concern, and unjustly enrich itself by attempting to avail both the remedies, i.e., through the process under the Code and other process as well.

h. That the entire liability of the Corporate Debtor in the capacity of the Respondent No. 1 Bank stands extinguished as the entirety of the claim of the Respondent No. 1 Bank qua the Corporate Debtor was verified and admitted by the Liquidator. The liability of the principal debtor/surety qua the borrower, when either of them is admitted into insolvency/liquidation is no longer res-integra. That the claim of a creditor qua the Corporate Debtor and the guarantors (or vice versa) stands extinguished when the entirety of the claim of the Corporate Debtor is admitted by the Resolution Professional/Liquidator. Therefore, once the entire claim of a creditor is admitted by the Liquidator in the insolvency resolution process of either the borrower or the guarantor, the liability of the guarantor and the borrower would stand extinguished as the case may be.

i. That the Hon'ble NCLAT in the case of Dr. Vishnu Kumar Agarwal v. Piramal Enterprises Limited, Company Appeal (AT) (Insolvency) No. 346 of 2018 held:

"In the present case, the Adjudicating Authority has accepted that there is a debt payable in law by 'Sunsystem Institute of Information Technology Pvt. Ltd., (Corporate Guarantor No. 2) and admitted the application on 24th May, 2018. The moment it is admitted, it is open to the other 'Corporate Guarantor No. 1' namely 'Sunrise Naturopathy and Resorts Pvt. Ltd., to say that the debt in question is not due as it is not payable in law, having shown the same debt payable by the Corporate Guarantor No. 2 in its Form-1, and 'Corporate Insolvency Resolution Process' having already been initiated against the 'Corporate Guarantor No. 2'.

j. That the debt allegedly payable by the Corporate Debtor and the Applicant Companies, being the guarantors, is not due as it is not payable in law as the entire debt of the Corporate Debtor has been extinguished by the admission of the claim by the Liquidator. The Hon'ble NCLT, Principal Bench in ICICI Bank vs. Era Infrastructure (India) Limited, C.P. No. IB-1151(PB)/2018 held:

"In light of the aforesaid facts and circumstances of the case, the question further is as to whether the claim lodged by the applicant- the ICICI Bank which was based on the same set of facts and documents in the parent company namely Era Infra Engineering Limited which after rejection by the Resolution Professional of that company we had allowed vide order 06.12.2018. A direction stand issued to the RP to admit the said claim as Financial Debt. This is again raised for admission in the present proceeding. Such a course obviously is not permissible in law as laid down in Dr. Vishnu Kumar Agarwal case (supra).

k. That once the principal debt of the Corporate Debtor qua the Respondent No. 1 Bank stands extinguished due to the admission of the claim by the Liquidator. The Respondent No. 1 bank ought not to initiate any coercive steps against the Applicant Companies as any of the liability of the Applicant Companies stand discharged with the admission of the claim by the Liquidator.

l. That the Respondent No. 1 bank ought to await the sale of the Corporate Debtor as a going concern before attempting to sell the assets of the Applicant by means of issuing the impugned notice as the entire debt of the Corporate Debtor could stand extinguished by the sale of the assets of the Corporate Debtor.

m. There is a binding proposal by Gabs Megacorp to acquire the entirety of the

Corporate Debtor for Rs. 1654.77 crores and that the Respondent No. 1 bank is set to receive significant amounts out of the sale of the Corporate Debtor to Gabs Megacorp as the Respondent No. 1 bank is a significant financial creditor of the Corporate Debtor. Therefore there is a distinct and clear possibility that the entirety of claim of the Respondent No. 1 bank qua the Corporate Debtor could be cleared by the sale of assets of the Corporate Debtor.

n. That the entire debt alleged to be payable to the Respondent No. 1 bank can stand extinguished after the payments being made by Gabs Megacorp. That the Respondent No. 1 bank apart from making a vague statement about the non-extinguishment of debt has not provided any details about the receipt of payments from Gabs Megacorp limited to the Respondent No. 1 Bank, clearly indicating that significant amount or entirety of debts of the Respondent No. 1 Bank might stand extinguished after the sale of assets of the Gabs Megacorp.

o. That the instant application has been filed by the Applicant Companies against the Respondent No. 1 Bank for acting in violation of the provisions of the Code and hindering the sale of the Corporate Debtor as a going concern.

p. That the alleged debt which forms the basis for the initiation of coercive steps by the Respondent No. 1 Bank stand extinguished due to the initiation of liquidation by this Adjudicating Authority and consequent acceptance of the entirety of the claim of the Respondent No. 1 Bank by the liquidator.

q. Reiterating the above, counsel for the Applicants prayed to allow the instant Application.

4. The counsel for the Respondent No. 1 Bank filed counter inter-alia stating that the instant application is liable to be dismissed on the following grounds:

a) That this instant Application is not maintainable and must be dismissed, as the National Company Law Tribunal does not have the jurisdiction to entertain such application under any provisions of the Code or the NCLT Rules or the respective Regulations. The Applicants must resort to the remedies available to them under the SARFAESI Act regarding any proceedings initiated by the Respondents under SARFAESI Act 2002.

b) That the Respondent herein (Andhra Bank) has initiated proceedings against the Applicants under the SARFAESI Act after invoking the guarantee provided by the Applicants under the contract of guarantee by virtue of the right vested with the Respondent under Section 128 of the Indian Contact Act, 1872, which states that the liability of the guarantor and the liability of the principal debtor/borrower are coextensive. This position has been upheld in numerous judgements by the Hon'ble Supreme Court and is a well-established principle of law. This action of the Respondent initiating proceedings against the Applicants is clearly lawful and permissible under the law.

c) That the assets of the Applicants (being subsidiaries of the Corporate Debtor) do not form part of the liquidation estate and inasmuch, the Respondent can take recourse of initiating action against the Applicants under the SARFAESI Act, owing to the settled principles of law read in conjunction with the provisions of the Code and the SARFAESI Act without needing to wait for the liquidation process. The Guarantor and the Corporate Debtor are liable at the same time and, the Respondent need not wait for the liquidation process to conclude. It is true that the Corporate Debtor owes significant amount of dues to the Respondent. The mere fact that the Corporate Debtor is under liquidation does not eliminate the Guarantor's liability. It was held by the Hon'ble Supreme Court in the case of Maharashtra State Electricity Board, Bombay vs. Official Liquidator, High Court, Ernakulam and Ors. that:

"The fact that the Company in liquidation i.e. the principal debtor has gone into liquidation also would not have any effect on the liability of the Bank i.e. the guarantor. Under Section 128 of the Indian Contract Act, the liability of the surety is co-extensive with that of the principal debtor unless it is otherwise provided by the contract. A surety is no doubt discharged under Section 134 of the Indian Contract Act by any contract between the creditor and the principal debtor by which the principal debtor is released or by any act or omission of the creditor, the legal consequence of which is the discharge e of the principal debtor. But a discharge which the principal debtor may secure by operation of law in bankruptcy (or in liquidation proceedings in the case of a company) does not ab solve the surety of his liability. "

d) The contract of guarantee entered into between the Applicants and the Respondent is a 'continuing guarantee', which effectively stipulates that the guarantor is liable to pay on demand. Therefore, the Applicants contention that the Respondent ought to wait until the debt is crystallized against them is not supported by law.

e) That the Respondent shall not recover the entirety of the amount due by the Corporate Debtor, based on the current bid placed by the prospective bidder before the liquidator. Be that as it may, the Respondent has a legal right vested with them to simultaneously proceed against the corporate guarantors (Applicants) by virtue of The Indian Contract Act, IBC and the SARFAESI Act. The Respondent is merely exercising their vested rights under applicable laws available to them.

Reiterating the above, the counsel for the Respondent No. 1/Andhra Bank (now merged with Union Bank of India) prayed to dismiss the instant application.

5. The counsel for the Respondent No. 3/Liquidator filed counter and written submissions inter-alia stating the following:

I. Respondent No. 3/Liquidator has contended that this Application only for the limited purpose of opposing certain interim reliefs as prayed for in prayers (b), (c) and (d) of the present Application. As far as the final reliefs and interim relief claimed in prayer (a) are concerned, the Liquidator submits to the orders of this Adjudicating Authority as the same is not prayed against him. That if Respondent

No. 1 is allowed to go through with action under the SARFAESI Act 2002, against the Applicants, it will affect the ability of the Liquidator to sell the Corporate Debtor as a going concern.

II. That M/s. First Global Finance Private Limited challenged the Liquidation Order before the Hon'ble NCLAT. At the hearing held on September 6, 2019, the Hon'ble NCLAT passed the following direction:

"The liquidator will not sell or transfer or alienate moveable or immoveable property of the Corporate Debtor nor create any third-party encumbrance on the same, without prior approval of this Appellate Tribunal."

III. That the Hon'ble NCLAT vide its order dated 29.05.2020, dismissed the appeal and permitted Respondent No. 3 to proceed with the sale of the Corporate Debtor as a going concern. In view of the aforesaid, at present there is no fetter on the sale of the Corporate Debtor as a going concern. The process of the sale of the Corporate Debtor as a going concern to the successful bidder viz. Gabs Megacorp Limited ('Sale') is at an advanced stage.

IV. That there is no requirement to seek any approval from this Adjudicating Authority to conclude the Sale and that the Liquidator is conducting the Sale strictly in compliance with the provisions of the Code. Further, there is no requirement in law for the Liquidator to bring on record any information, as sought for by the Applicants. The interim prayers sought by the Applicants against the Liquidator have no causal connection with the final prayer that has been sought against Respondent No. 1 in the present application.

V. That the Applicants have not demonstrated under which provision of law is the Liquidator required to furnish the information sought for against the Liquidator and that the action initiated by Respondent No. 1 could potentially impact the Sale.

VI. That Respondent No. 1 is not a secured creditor of the Corporate Debtor and therefore the question of any relinquishment of security on the part of Respondent No. 1 does not arise. The security in favour of Respondent No. 1 is provided by the Applicants and not the Corporate Debtor. With reference to the shareholding structure of the Applicants, the Corporate Debtor owns 100% of the shares of the Applicant companies and therefore, the said shares will form part of the assets of the Corporate Debtor and will accordingly form part of the Sale. While the Applicants have provided security to Respondent No. 1 over certain assets, the same does not include the said shares.

VII. That if Respondent No. 1 is allowed to go through with action under the SARFAESI Act, it may prejudicially impact the Sale as the Applicants are wholly owned subsidiaries of the Corporate Debtor, and it is likely that the consideration that is being paid by the successful Bidder may include the wholly owned subsidiaries of Corporate Debtor as well.

VIII. Reiterating the above, the main prayer sought for by the Applicants against

Respondent No. 2 ought to be granted and the interim prayer (b) to (d) that are being sought against Respondent No. 3 ought to be rejected as the same are legally untenable.

6. Heard and perused the record.

7. Facts on record, which are not in dispute are as under:-

7.1. That the CIRP was initiated against the CD vide order dated 23.02.2018 and since no resolution plan was received, an order of liquidation of Corporate Debtor in terms of section 33 of the Code was passed vide order dated 26.07.2019 read with order dated 30.07.2019.

7.2. That the Corporate Debtor is being maintained as a going concern undergoing process of liquidation and that one M/s. Gabs Megacorp Ltd. has bid to take the CD as a going concern for a value of Rs. 1654.77 crores.

7.3. That the CD holds majority shares in the Applicant companies herein and that the Applicant companies herein stood as guarantors and have mortgaged some of its Assets respectively, against the loan obtained by the Corporate Debtor.

7.4. That Andhra Bank/Respondent No. 1 Bank being one of the Financial Creditor, without awaiting sale of liquidation assets and scuttling the liquidation of Corporate Debtor as going concern, the R1 Bank herein is contemplating to proceed against the properties offered by the Applicants as collateral security by issuing a Demand Notice dated 18.12.2019, followed by Possession Notice dated 11.03.2020.

8. Basing on the above facts, the points for consideration before this Adjudicating Authority are as under:

a. Whether the instant Application filed by the Applicant companies is maintainable under provisions of IB Code, 2016 or not?

b. Whether the Respondent No. 1 bank can initiate the proceedings under SARFAESI Act, 2002 and sell the assets of the Applicant companies which are subsidiaries (while three are 100% subsidiaries and one being 66%) of the Corporate Debtor, which may eventually result in diminishing the value of the Corporate Debtor or not?

9. The instant Application is being filed under Section 60(5) of the Code, 2016, which reads as under:-

60(5) Notwithstanding anything to the contrary contained in any other law for the time being in force, the National Company Law Tribunal shall have jurisdiction to entertain or dispose of-

(a) any application or proceeding by or against the corporate debtor or corporate person;

(b) any claim made by or against the corporate debtor or corporate person, including claims by or against any of its subsidiaries situated in India; and

(c) any question of priorities or any question of law or facts, arising out of or in relation to the insolvency resolution or liquidation proceedings of the corporate debtor or corporate person under this Code.

10. The Applicants in the instant Application have raised a question impacting the sale of the Corporate Debtor as a going concern and therefore, the same would squarely fall within the ambit of 60(5)(c) of the IB Code, 2016. Accordingly, this Adjudicating Authority holds that the instant Application is maintainable as per provisions of IB Code, 2016.

11. In the present case, during the CIRP, as there was no viable resolution plan, this Adjudicating Authority passed an order for liquidation. Against the said order of liquidation, an appeal came to be preferred before Hon'ble NCLAT.

12. The Hon'ble NCLAT on 06.09.2019, vide Company Appeal (AT) (Insolvency) Nos. 918-919 of 2019 has passed the following order as under:-

"... ... ...

In the meantime, the liquidator will ensure that Company remains a going concern, collate the claim, justify though in accordance with law and proceeded with in terms of the decision of this Appellate Tribunal passed in Company Appeal (A T) (Insolvency) No. 224 of 2018 in the matter of Y. Shivram Prasad Vs. S. Dhanapal & Ors. on 27th February, 2019.

... ..."

13. The fact on record is that one M/s. Gabs Megacorp, is the successful auction bidder, who is acquiring the Corporate Debtor as a going concern for a bid of Rs. 1654.77 Crores. It is also a fact that the assets of the Corporate Debtor includes investments in the subsidiary companies. The value of the said investments would depend, inter-alia, on the value of the assets owned by the subsidiary companies, apparently, the successful bidder has bid the acquisition amount based on the value of the assets of the Corporate Debtor which include the investment in the shares of the Applicant companies i.e., the subsidiary companies herein.

14. In case, the Respondent No. 1 bank is allowed to proceed with the sale of the Applicants, there is every chance that it would diminish the value of the Applicants, which would result in diminishing the value of the Corporate Debtor, since the value of the Corporate Debtor includes the value of its shareholding in the Applicant companies.

15. The Hon'ble Supreme Court in the matter of Swiss Ribbons Pvt. Ltd. vs. Union Of India has held as under:-

... .

The Preamble of the Code states as follows:--

--An Act to consolidate and amend the laws relating to reorganization and insolvency resolution of corporate persons, partnership firms and individuals in a time- bound manner for maximization of value of assets of such persons, to promote entrepreneur ship, availability of credit and balance the interests of all the stakeholders including alteration in the order of priority of payment of Government dues and to establish an Insolvency and Bankruptcy Board of India, and for matters connected therewith or incidental thereto.

11. As is discernible, the Preamble gives an insight into what is sought to be achieved by the Code. The Code is first and foremost, a Code for reorganization and insolvency resolution of corporate debtors.

Unless such reorganization is effected in a time-bound manner, the value of the assets of such persons will deplete. Therefore, maximization of value of the assets of such persons so that they are efficiently run as going concerns is another very important objective of the Code. This, in turn, will promote entrepreneurs hip as the persons in management of the corporate debtor are removed and replaced by entrepreneurs. When, therefore, a resolution plan takes off and the corporate debtor is brought back into the economic mainstream, it is able to repay its debts, which, in turn, enhances the viability of credit in the hands of banks and financial institutions. Above all, ultimately, the interests of all stakeholders are looked after as the corporate debtor itself becomes a beneficiary of the resolution scheme - workers are paid, the creditors in the long run will be repaid in full, and shareholders/investors are able to maximize their investment. Timely resolution of a corporate debtor who is in the red, by an effective legal framework, would go a long way to support the development of credit markets. Since more investment can be made with funds that have come back into the economy, business then eases up, which leads, overall, to higher economic growth and development of the Indian economy. What is interesting to note is that the Preamble does not, in any manner, refer to liquidation, which is only availed of as a last resort if there is either no resolution plan or the resolution plans submitted are not up to the mark. Even in liquidation, the liquidator can sell the business of the corporate debtor as a going concern.

It can thus be seen that the primary focus of the legislation is to ensure revival and continuation of the corporate debtor by protecting the corporate debtor from its own management and from a corporate death by liquidation. The Code is thus a beneficial legislation which puts the corporate debtor back on its feet, not being a mere recovery legislation for creditors. "

16. Further Hon'ble NCLAT vide Company Appeals (AT) (Insolvency) Nos. 82, 123, 188, 216 & 234 of 2018 in the matter of Binani Industries limited vs. Bank of Baroda and ors, has categorically held as under:-

17. To decide the issue, it will be desirable to notice the object of the T&B Code',

object of 'Resolution' and what is expected from the 'Committee of Creditors', as summarized below: -

1. The objective of the 'I&B Code'

As evident from the long title of the 'I&B Code', it is for reorganisation and insolvency resolution of corporate persons, partnership firms and individuals in a time bound manner for maximisation of value of assets of such persons to promote entrepreneur ship, availability of credit, and balance the interests all stakeholders. The recent Ordinance explicitly aims to promote resolution over liquidation.

2. The objective of the 'I&B Code' is Resolution.

The Purpose of Resolution is for maximisation of value of assets of the 'Corporate Debtor' and thereby for all creditors. It is not maximisation of value for a 'stakeholder' or 'a set of stakeholders' such as Creditors and to promote entrepreneurs hip, availability of credit and balance the interests. The first order objective is "resolution". The second order objective is "maximisation of value of assets of the 'Corporate Debtor" and the third order objective is "promoting entrepreneurs hip, availability of credit and balancing the interests ". This order of objective is sacrosanct.

In the matter of "Arcelor Mittal India Pvt. Ltd. v. Satish Kumar Gupta and Ors. ", the Hon'ble Supreme Court observed that "the 'Corporate Debtor' consists of several employees and workmen whose daily bread is dependent on the outcome of the CIRP. If there is a resolution applicant who can continue to run the corporate debtor as a going concern, every effort must be made to try and see that this is made possible."

17. Though it is a settled position of Law that the liabilities of a surety is coextensive with that of principal debtor and further in view of the Law settled by the Hon'ble NCLAT and Hon'ble Supreme Court that a Financial Creditor can proceed to enforce the guarantees against the guarantors. Thus the settled position of Law, that there should not be any restraints on a Financial Creditor to proceed against the Guarantor even after the initiation of CIRP, approval of Resolution Plan or liquidation proceedings being commenced or closed. However, in the instant case, it is not the question of the right of the Financial Creditor to enforce the guarantee against the guarantor, but the point for consideration is whether the Respondent No. 1 Bank can proceed with the enforcement of security interest and sell the properties owned by guarantor companies within Applicant No. 1 to 4, which also would certainly result in diminishing the value of the Corporate Debtor, which would impact the sale of the Corporate Debtor as a going concern. As long as the act of the R1 Bank in enforcing the security interest against the applicant companies does not concern or adversely affect the value of the assets of the Corporate Debtor, the Respondent No. 1 bank is at liberty and will have no restraints to proceed with the sale of the mortgaged properties of the Applicant companies, the moment such coercive steps adversely

impact the value of the Assets of the Corporate Debtor, the same would be against and contrary to the stated objectives of the Code.

18. In view of the above observations, This Adjudicating Authority feels it proper to direct Respondent No. 1 bank not to take any coercive steps such as sale of the properties mortgaged by the Applicant companies in favor of Respondent No. 1 bank till the completion of Liquidation proceedings of the Corporate Debtor.

19. Accordingly, Application bearing IA No. 335 of 2020 stands disposed of.

