

NATIONAL COMPANY LAW APPELLATE TRIBUNAL,
PRINCIPAL BENCH, NEW DELHI

Comp. App. (AT) (Ins) No. 950-954 of 2024

(Arising out of Order dated 14.03.2024 passed by the Adjudicating Authority (National Company Law Tribunal), Division Bench, Court No.II, Kolkata in I.A (IB) No. 1345/KB/2022; IVNP. (IBC) No. 21/KB/2022; IVNP. (IBC) No. 15/KB/2022, IVNP. (IBC) No. 23/KB/2022 and I.A. (IB) No. 923/KB/2022 in C.P. (IB) No. 1782/KB/2019)

IN THE MATTER OF:

Committee of Creditors of Jupitar Spun Pipes
& Casting Pvt. Ltd. Through its leading
Financial Creditor State Bank of India

...Appellant

Versus

Bihar State Industrial Development
Corporation Ltd. & Ors.

...Respondents

Present:

For Appellant : Mr Abhinav Vashisht, Sr. Advocate, Mr Indranil Ghosh, Mr Sildendra Tiwari, Ms Akshita Sachdeva, Ms Mrinal Chaudhary, Advocates

For Respondents : Mr Abhijeet Sinha, Sr. Advocate, Mr Shanak Mitra, Mr Saiket Sarkar, Mr Keshav Tibarwala, Advocates for R5.

Mr. Sajeve Deora, Ms. Tanvi Luhariwala, Advocate for R3.

Ms Tanvi, Vikash Singh, Ujwal Chaudhary, Tejasvi, Advocates for R1.

Ms. Divya Gupta, Advocate for R2 and R6.

With

Comp. App. (AT) (Ins) No. 955-959 of 2024

(Arising out of Order dated 14.03.2024 passed by the Adjudicating Authority (National Company Law Tribunal), Division Bench, Court No.II, Kolkata in I.A (IB) No. 1345/KB/2022; IVNP. (IBC) No. 21/KB/2022; IVNP. (IBC) No. 15/KB/2022, IVNP. (IBC) No. 23/KB/2022 and I.A. (IB) No. 923/KB/2022 in C.P. (IB) No. 1782/KB/2019)

IN THE MATTER OF:

Binay Kumar Singhania, Resolution Professional
of Jupitar Spun Pipes & Casting Pvt. Ltd.

...Appellant

Versus

Bihar State Industrial Development
Corporation Ltd. & Ors.

...Respondents

Present:

For Appellant : Mr Ramji Srivivasan (Sr. Adv.), Mr Drijit Chatterjee, Ms Swati Dalmia, Ms Neha Sinha, Mr Shubham Raj, Ms Safura Ahmed, Ms Shefal Munde, Mr Arjun Bhatia, Advocates

For Respondents : Mr. Abhijeet Sinha Sr. Advocate,, Mr S. Mitra, Mr. Saikat Sarkar, Mr. Keshav Tibarewala, Advocates for R3.

Mr. Sajeve Deora, Ms. Tanvi Luhariwala, Advocate for R-5

Ms Tanvi, Vikash Singh, Ujwal Chaudhary, Tejasvi, Advocates for R1.

Mr Palzer Moktan for R4.

Ms Divya Gupta, Advocate R2 and R6.

J U D G M E N T

ASHOK BHUSHAN, J.

These Appeal(s) have been filed challenging the same order dated 14.03.2024 passed by National Company Law Tribunal, Division Bench, Court No.II, Kolkata in IA (IB) No.1345/KB/2022, Intervention Petition (IBC) No.21/KB/2022; Intervention Petition (IBC) No.15/KB/2022; Intervention Petition (IBC) No.23/KB/2022; and I.A. (IB) No.923/KB/2022 in C.P. (IB) No.1782/KB/2019. The Adjudicating Authority disposed of all IAs by the said order. Aggrieved by which order these two sets of Appeal(s), one by Committee of Creditors of Jupitar Spun Pipes and Casting Pvt. Ltd. and other by Resolution Professional (“**RP**”) of Jupitar Spun Pipes and Casting Pvt. Ltd. of the CD have been filed.

2. Notices were issued in the Appeal(s) on 17.05.2024, on which date an interim order was also passed directing that no further steps shall be taken by the CoC and RP in pursuance of the impugned order. Replies have been filed by the Respondents, to which rejoinder affidavits have also been filed.

3. We need to first notice background facts giving rise to these Appeal(s):

- (i) The State of Bihar in the year 1961 acquired land from a Company Gayday Iron and Steel Company Ltd. ("**Gayday**") situated at Hazaribag, Bihar (presently known as Kodarma, Jharkhand).
- (ii) The Gayday was admitted into liquidation in the year 1982 by the Calcutta High Court and Official Liquidator was appointed.
- (iii) A Civil Appeal No.1513 of 1982 was filed before the Hon'ble Supreme Court by Bihar State Industrial Development Corporation (hereinafter referred to as the "**BSIDC**") questioning the liquidation proceeding. The BSIDC deposited an amount of Rs.1.10 crores before the Registrar, Supreme Court. The Hon'ble Supreme Court on 25.10.1982 directed the Official Liquidator to advertise sale of the factory. Only one bid was received, i.e. of BSIDC for Rs.1.10 crores. The amount deposited by BSIDC was directed to be remitted to Official Liquidator to disburse the same.

- (iv) On 01.03.1983, the Calcutta High Court directed the Liquidator to hand over the possession of the said land including other assets of Gayday to BSIDC. Between 21.03.1983 to 23.03.1983 the representative of the Official Liquidator, Calcutta High Court went to the said property and handed over possession of the land, factory and all assets to BSIDC.
- (v) The BSIDC works under the State of Bihar for promoting the Companies for industrial development in the State of Bihar. BSIDC with the help of private sector partners namely Mr. P. Sancheti and Mr. V.S. Bharkatiya of Kolkata, incorporated a Company namely Magadh Spun Pipe Limited (hereinafter referred to as the “**Magadh**”) on 21.01.1985. The BSIDC handed over possession of the land and assets, which were given by Official Liquidator, to Magadh, which is also reflected in the Financial Statement of Magadh.
- (vi) Jupiter Spun Pipes & Casting Private Ltd. – Corporate Debtor (“**CD**”) was incorporated by one Nabarun Bhattacharjee and Sampa Bhattacharjee on 22.07.1999.
- (vii) Magadh took financial assistance from Industrial Reconstruction Bank of India (“**IRBI**”) to run its Plant and BSIDC was the Guarantor of the said loan. IRBI initiated proceedings before the Debt Recovery Tribunal, Kolkata for its dues.

- (viii) In the year 2000, the BSIDC attempted to lease out the unit and/ or factory in an attempt to clear the liabilities of IRBI and a lease was proposed to a Company – Machineries and Allied Products Pvt. Ltd. (“**MAPPL**”) at an annual lease rent of Rs.45.50 lakhs. MAPPL paid certain amount, but due to non-payment of full amount registered lease in favour of MAPPL, could not be executed.
- (ix) In the year 2005, the BSIDC took fresh initiative to reopen the factory and approached the State of Bihar, who gave consent to run the unit on the lease. The BSIDC approached the Magadh.
- (x) The CD claims to have obtained lease of land admeasuring 344.915 acres together with plant and machinery on 24.09.2007 from BSIDC and Magadh on consideration of Rs.16 crores with Rs.1 lakh yearly lease rent. An amount of Rs.10 lakhs advance lease rent was also claimed to be given.
- (xi) On the basis of the Lease Deed dated 24.09.2007, the CD approached the State Bank of India (“**SBI**”) , Kolkata. The SBI by order dated 24.12.2007 sanctioned credit facilities to the CD. On 04.01.2008, the CD claimed to have executed a Mortgage Deed of the entire land and assets in favour of the SBI.
- (xii) There being certain issues regarding payment of stamp duty, the Conveyance Deed by the Official Liquidator in favour of

BSIDC could be executed only on 17.07.2009, by which Deed, the Official Liquidator conveyed the entire property with plant and machinery, in favour of BSIDC. The said Conveyance Deed was registered on 06.09.2011. BSIDC has held shares of Magadh. On 04.11.2011, the BSIDC transferred its shares in Magdah to CD for consideration of Rs.3.2 crores. The BSIDC on 05.03.2012 transferred its rights, title and interest of BSIDC in said property to Magadh. The stamp duty for registration of Sale Deed amounting to Rs.1,18,75,860/- was paid by the CD, which was claimed as investment in the Magadh.

- (xiii) The CD having defaulted in payment to the SBI, the SBI declared the account of the CD as NPA and issued notice under Section 13, sub-section (2) of the SARFAESI Act, 2002. The SBI invoked Section 13, sub-section (4) of the SARFAESI Act and approached the Deputy Commissioner of Kodarma to take possession of the assets.
- (xiv) On an application under Section 14 of the SARFAESI Act, an order was passed on 20.02.2017 by the Deputy Commissioner for handing over possession of the assets to SBI. Magadh challenged the order dated 20.02.2017 before the Jharkhand High Court by filing the Writ Petition No.2223 of 2019. Magadh in the Writ Petition pleaded that the Lease Deed dated 24.09.2007 claimed to be executed in favour of

the CD by the BSIDC and Magadh is a forged and fabricated document. Magadh pleaded that no Lease was ever executed in favour of the CD. The Jharkhand High Court vide order dated 11.06.2019 noticing that the Writ Petition raises appreciation of factual aspects, which cannot be gone into, it was left open for Magadh to agitate the dispute before the Forum under Section 17 of the SARFAESI Act.

(xv) In the year 2019, SBI filed an application under Section 7 of the Insolvency and Bankruptcy Code, 2016 (hereinafter referred to as the “**IBC**”) against the CD before the NCLT, Kolkata. By order dated 03.11.2021 Corporate Insolvency Resolution Process (“**CIRP**”) commenced against the CD. Magadh filed a Company Appeal (AT) (Ins.) No.45 of 2022, challenging the order dated 03.11.2021 initiating the CIRP against the CD, which Appeal was dismissed as withdrawn on 13.09.2022 permitting the Magadh to file an IA in pending CP(IB)/1782/KB/2019.

(xvi) In the CIRP of the CD, Form-G was published and one Agile Metaliks Pvt. Ltd. (“**Agile**”) submitted its Resolution Plan, which was approved by 100% vote share of the CoC on 04.08.2022. In the CoC, the SBI has 96% vote share. On 05.08.2022, BSIDC filed IVNP (IB) No.15/KB/2022 seeking a declaration that BSIDC is the owner of the asset and RP be directed not to take any steps in connection with the

property. The RP filed an IA (IB)923/KB/2022 for approval of the Resolution Plan. Magadh filed an IA(IB)1345/KB/2022 seeking declaration that Magadh is the owner of the assets. Another IVNP.(IB) No.23/KB/2022 was filed by Shanti Ranjan Paul on 09.11.2022. Another IVNP.(IB)No.21/KB/2022 was also filed by Agile seeking to intervene in Plan approval application and in both the applications filed by BSIDC and Magadh.

- (xvii) The Adjudicating Authority by the impugned order held that Lease Deed dated 24.09.2007 claimed by the CD, does not inspire confidence. The Lease Deed casts a doubt, whether it is forged or fabricated document. The Adjudicating Authority held that issue relating to forged and fabrication, cannot be decided in summary proceedings. It was further observed that original lease dated 24.09.2007 was not produced before the Adjudicating Authority. It was held that Deed dated 24.09.2007 mention about upfront payment of Rs.16 crores, but no evidence of payment of upfront payment of Rs.16 crores or yearly payment of lease rent have been produced before the Adjudicating Authority. The Adjudicating Authority held that case set up by the CD that it became a Lessee in 2007 fails to inspire confidence. The Adjudicating Authority took the view that Financial Creditor, i.e. SBI extended financial assistance to the CD on the basis of the forged

document. The right of the CD being not clear, the land ought not to be included in the Information Memorandum as Leasehold interest of the CD. The Adjudicating Authority held that in view of the above, the Plan cannot be approved. Plan approval application IA(IB) No.923/KB/2022 was not approved and the matter was sent back to the CoC for reconsideration. All Intervention Applications and IAs were disposed of. Aggrieved by the aforesaid order dated 14.03.2024, the CoC and the RP filed these Appeal(s).

4. We have heard Shri Abhinav Vashisht, learned Senior Counsel appearing for the CoC; Shri Ramji Srinivisan, learned Senior Counsel appearing for the RP; Shri Abhijeet Sinha, learned Senior Counsel appearing for the SRA/ Respondent No.3; Shri Vikash Singh, learned Counsel appearing for the BSIDC; Ms. Divya Gupta, learned Counsel for Magadh; and Shri Sajeve Deora, learned Counsel appearing for Shanti Ranjan Paul/ Respondent No.5.

5. By order dated 08.08.2025, IA No.3003 - 3005 of 2025 filed by the CoC to produce the original Lease Deed dated 24.09.2007, was disposed of, taking the original Lease Deed on record.

6. Shri Avbinav Vashisht, learned Senior Counsel appearing for the CoC submits that lease in favour of the CD was registered on 24.09.2007. The Lease Deed mentions upfront payment of Rs.16 crores to the BSIDC and Rs.10 lakhs towards lease rent from 2006 to 2016. The SBI obtained titled investigation report on 09.10.2007, which mentions that CD has

marketable title, on the basis of which financial facilities were extended to the CD. On 04.01.2008 the CD mortgaged the land to the SBI by creating a charge. Initially, the facility of Rs.37.50 crores was granted, which was extended from time to time. The Adjudicating Authority on account of non-production of the Original Lease Deed has drawn adverse presumption against the CD and now Original Lease Deed has been taken on record by this Tribunal, presumption of execution and validity of Lease Deed has to be drawn. It is submitted that even though Conveyance Deed in favour of BSIDC was executed in the year 2009, which was registered on 06.09.2011, but the BSIDC being successful auction purchaser, it had right to lease out the assets, which it did to the CD on 24.09.2007. On 05.03.2012, the BSIDC has conveyed the assets to Magadh and stamp duty for registration of Deed on 05.03.2012 was paid by the CD, which is reflected in the Financial Statement of the CD. It is submitted that the CD having committed the default, the SBI has initiated proceeding to take possession of the assets of the CD under the SARFAESI Act. It is submitted that challenging the order passed by Deputy Commissioner dated 20.02.2017, Magadh filed a Writ Petition in Jharkhand High Court, which was dismissed on 11.06.2019, leaving it open to Magadh to initiate any action. However, till date, no action has been initiated by the Magadh. It is submitted that Adjudicating Authority, who has no jurisdiction to entertain any argument of fraud or forgery, has gone beyond its jurisdiction in observing that Lease Deed dated 24.09.2007 is forged Deed. The Adjudicating Authority has no jurisdiction to enter into

the question of fraud and forgery, which is not in the purview of Adjudicating Authority. The Adjudicating Authority has assumed the jurisdiction of the Civil Court on fraud and forgery, which is beyond its jurisdiction. It is submitted that the RP also enquired from the registering Authority about the Deed dated 24.09.2007, which informed vide letter dated 17.11.2022 that in the fee Register, the Deed finds mention, however, original volume containing the Original Lease Deed is missing, for which proceedings to lodge an F.I.R. are taken by the registering Authority. The submission of the BSIDC that it became owner of the assets only on execution of Conveyance Deed by Official Liquidator in the year 2009, which was registered in 2011, is incorrect. The BSIDC, who was successful auction purchaser and auction was confirmed by the Supreme Court on 17.12.1982, was fully entitled to lease out the asset. It is submitted that the SBI has extended the facility and granted loan to the CD, which is a public money and it has every right to take steps to recover the same amount. It is submitted that Intervention Petition filed by both BSIDC and Magadh sought declaration of title in their favour, which is beyond the jurisdiction of Adjudicating Authority. Shri Shanti Ranjan Paul, who has filed Intervention Petition, at best is a subsequent Mortgagee. Shri Shanti Ranjan has not produced any proof of payment to Magadh or any registration with RoC. The Adjudicating Authority wrongly recorded that civil proceeding has been initiated By Magadh for declaration of title, whereas no proceedings are pending. Merely because Lease Deed was yet to be executed in favour of BSIDC, it cannot be said

that BSIDC had no Authority to execute the Lease Deed on 24.09.2007. The Adjudicating Authority failed to examine Title Reports, Balance Sheet and the RTI response issued by the Sub-Registrar. The BSIDC, Magadh and Shanti Ranjan Paul have attempted to derail the CIRP. The Lease Deed in favour of the CD is a registered document. The argument that individual to sign the Lease Deed on behalf of BSIDC, was not authorized is also vague and lack any document or evidence. It is submitted that in view of the above facts, the impugned order be set aside.

7. Shri Ramji Srinivasan, learned Senior Counsel appearing for the RP submits that the RP relying on materials on record has rightly shown the assets of the CD, in which CD has leasehold rights vide Lease Deed dated 24.09.2007. It is submitted that the CoC having filed an application IA No.3003-3005 of 2025 in the Appeal seeking permission to produce original Lease Deed, which has been allowed vide order dated 08.08.2025, the very basis of the impugned order passed by Adjudicating Authority that original Lease Deed has not been filed is knocked out. The registered document being on the record, presumption of its execution and enforceability has to be drawn. The RP has filed an RTI application on 17.10.2022 before the Sub-Registrar, Kodarma, who has replied vide letter dated 17.11.2022 that there is entry in the Register of execution of Lease Deed, but the volume containing the original Lease Deed is missing, for which steps for lodging FIR is being taken. The land was always in possession of the CD and Magadh has leased the land to the CD on 24.09.2007 and CD has started manufacturing on the land and has

obtained various licenses for operation. The Adjudicating Authority having found it lack jurisdiction to examine the question of fraud and forgery, it could not have been proceeded to hold that lease dated 24.09.2007 is forged document. Ultimate finding of the Adjudicating Authority that Financial Creditor has extended loan on the basis of forged document is contrary to own finding of the Adjudicating Authority and is in excess of jurisdiction. Magadh although challenged the order of Deputy Commissioner dated 20.02.2017 by filing a Writ Petition, which was dismissed, but no further steps were taken by the Magadh to initiate any civil proceedings for declaration of its title. Hence, it is not open for the Magadh or BSIDC to intervene in the CIRP for declaration of title in these proceedings. The Plan has been approved by the CoC in the CIRP of the CD with 100% vote share and it was thereafter the Respondents have filed the Intervention Petitions in the CIRP. Shri Shanti Ranjan Paul has failed to bring any document evidencing any mortgage created in its favour. The CD has paid amount of Rs.16 crores and Rs.10 lakhs as an advance annual rent, which is clearly mentioned in the lease document dated 24.09.2007. The Bank statement filed by the Respondent of Canara Bank with whom Syndicate Bank is merged is not reliable. It is submitted that the RP has rightly included the asset in the Information Memorandum on the basis of lease hold rights of the CD. The Adjudicating Authority committed error in holding that the said asset could not have been included in the assets of the CD.

8. Shri Vikash Singh, learned Counsel appearing for BSIDC opposing the submission of the Appellant submits that BSIDC has not executed the Lease Deed dated 24.09.2007 as claimed by the CD. Although, BSIDC was declared as successful auction purchaser by the Hon'ble Supreme Court vide order dated 17.12.1982 and possession was also handed over by the Official Liquidator in the year 1982, but neither the Sale Certificate nor any Conveyance Deed was executed by Official Liquidator in favour of the BSIDC. The Official Liquidator executed the Conveyance Deed in favour of BSIDC only on 17.07.2009, which was registered in the year 06.09.2011. The BSIDC had never agreed to lease out the assets to the CD. The copy of the Lease Deed dated 24.09.2007, which has been filed by the CD, itself indicate that the said Deed mentions that BSIDC has authorised one Shri A.K. Srivastava and Shri B.B. Lal to execute the Deed on behalf of the BSIDC, whereas Deed dated 24.09.2007 is claimed to be executed by one Shri Dashrath Prasad, claiming to be Special Assistant, who is Typist in the BSIDC. Thus, the person who is claimed to have executed the Deed on behalf of the BSIDC is not entitled to execute as per the statements made in the Deed itself. Further the Lease Deed mentions that upfront payment of Rs.16 crores and advance lease rent of Rs.10 lakhs have been paid by different cheques, but no amount was ever received towards the upfront payment of Rs.16 crores and lease rent by the BSIDC, nor any materials have been placed by the CD or RP to prove any payment to the BSIDC. It was all manipulation of Managing Director of the CD – Nabarun Bhattacharjee, who is claiming a forged Deed for

leasehold rights, has duped the officials of SBI by obtaining huge amount on a Deed which is forged. It is submitted that BSIDC has earlier entered into an Agreement with one Machineries and Allied Products Pvt. Ltd. to lease out the land @ Rs.45.50 lakhs and although certain amount was paid by MAPPL, but the full amount was not paid, due to which the registered Lease Deed, could not be executed. The BSIDC has approached the Magadh in the year 2005 for reviving the plant. It is submitted that the BSIDC has executed the Deed of Conveyance in favour of Magadh of the entire land on 05.03.2012. The payment of stamp duty by CD for the Lease Deed dated 05.03.2012 cannot be said to be any consideration paid by the CD. It is submitted that BSIDC has transferred the shares in Magadh to CD in 2011, but by transfer of shares of Magadh to CD in 2011, the CD does not acquire any right. It is submitted that the SBI never enquired from BSIDC about the Lease Deed dated 24.09.2007. It was BSIDC who had right in the assets as being successful auction purchaser and without any enquiry from the owner, the SBI proceeded to advance the facilities to the CD on a void and unenforceable document. It is submitted that the RP also never made any enquiry from the BSIDC and proceeded to treat the land as the asset of the CD, whereas the CD has no right of any kind in the asset. It is submitted that the BSIDC having come to know about the said fraud, has filed Intervention Petition, which has been duly considered by the Adjudicating Authority. It is submitted that the Adjudicating Authority was satisfied that Deed dated 24.09.2007, claimed by the CD is doubtful and questionable, hence the

asset cannot be treated to be asset of the CD, which finding is based on material on record.

9. Learned Counsel appearing for Magadh also adopted the submissions advanced on behalf of the BSIDC. Learned Counsel for the Magadh submits that Magadh never executed any Lease Deed of the asset in favour of the CD. The Lease Deed dated 24.09.2007 claims that the Lease Deed was executed by one Shri B.B. Lal on behalf of Magadh, whereas B.B. Lal, was never a Director of the Magadh, which is clear from Form No.20 of the year ending on 31.03.2008, where B.B. Lal has not shown as any Director or key Personnel of the Magadh. The person, who claimed to have executed the Lease on behalf of the Magadh in favour of the CD was clearly an unauthorized and any Deed by an unauthorized person, cannot transfer any rights to the CD. It is submitted that RP has sought a Report under RTI from Sub-Registrar, Kodarma, in reply to the same the registration Authority has informed vide letter dated 17.11.2022 that there is entry in the Register, but the alleged Lease Deed signed by one B.B. Lal in the year 2007 is missing and process of lodging FIR is on. The alleged Lease Deed dated 24.09.2007 having been executed by unauthorized person, is null, void and ab-initio and cannot confer any right to the CD. It is submitted that Magadh has after coming to know about the validity of Lease Deed dated 24.09.2007 has taken both civil and criminal action. The Magadh has registered the crime being FIR No.276 of 2021 with Jaynagar Police Station District Kodarma, Jharkhand against the officials of the CD and the SBI. Magadh has also

filed an Appeal against the order dated 03.11.2021 in this Appellate Tribunal being Company Appeal (AT) (Ins.) No.45 of 2022, which was permitted to be withdrawn with liberty to Magadh to file an application in the proceedings initiated by the SBI. The RP has neither informed the real owner of the asset, nor had verified from the real owners about the rights of the CD. It was Magadh, who was throughout in possession of the asset and when possession was taken by the SBI officials at that time employees of the Magadh were very well there in the factory premises.

10. Shri Sajeve Deora, learned Counsel appearing for Shri Shanti Ranjan Paul, who is Respondent No.3 in Company Appeal (AT) (Ins.) No.950-954 of 2024 and Respondent No.5 in Company Appeal (AT) (Ins.) No.955-959 of 2024 refuting the submissions of learned Counsel for the Appellant(s) submits that CD has no right in the asset. The Lease Deed dated 24.09.2007 was never executed by BSIDC and Magadh. There is no payment of any consideration, nor any materials have been brought on record by the RP or the CD to prove the payment of any consideration. It is submitted that the title in favour of BSIDC was transferred by Official Liquidator only by Conveyance Deed dated 17.07.2009 and was registered on 06.09.2011 and further the BSIDC has transferred the assets to Magadh on 05.03.2012. There is no mention of any Lease Deed dated 24.09.2007 in favour of the CD, nor any encumbrances are mentioned in both Deeds. The Deed dated 24.09.2007 on the face of it was claimed to be executed by persons, who were not authorised by BSIDC or by Magadh. It was the fraud and manipulation by Managing Director of the

CD Mr. Bhattacharjee in creating all fictitious documents. It is submitted that BSIDC had although, decided to lease the asset in favour of another Company, i.e., Machineries and Allied Products Pvt. Ltd., who had also paid certain amount to BSIDC. There was no decision of BSIDC or of the State of Bihar to lease the asset to the CD. No proof of payment of any consideration have been brought on record by the CD or RP as mentioned in the Deed dated 24.09.2007. The Lease Deed dated 24.09.2007 is *ex-facie* fabricated and fraudulent on the basis of which no rights can be claimed. It is submitted that Magadh has executed a mortgage in favour of Shanti Ranjan Paul on 03.10.2012 by deposit of original Title Deed as per Section 58(f) of the Transfer of Property Act and the Shanti Ranjan Paul is in possession of the original Title Deed and the mortgage. Both the BSIDC and Magadh having specifically challenged the execution of the Lease Deed dated 24.09.2007, the said asset never vests in the CD. The Resolution Plan on the basis of the asset is flawed and the Adjudicating Authority has rightly directed that the asset be not treated to be held by the CD. The Magadh was in possession of the said plant, including entire land, factory building, plant, machinery and equipment till 04.01.2019. The possession of the plant was taken by the SBI in proceedings under Section 14 of the SARFAESI Act. It is submitted that there were three Companies of the CD, i.e. Jupiter Ispat Pvt. Ltd.; Jupiter Coke & Energy Pvt. Ltd. against whom the SBI has also filed application under Section 7, which were dismissed as barred by limitation, whereas Section 7 application against the CD, which was third Company, was admitted. It

is submitted that infact BSIDC has executed Lease Deed dated 12.09.2006 in favour of Machineries and Allied Products Pvt. Ltd., who was selected in an auction conducted by BSIDC. On 12.09.2006, the CD also claiming a Lease Deed in its favour by BSIDC and mortgage, which is another example of forgery and fraud. The Balance Sheet of the Magadh contains the reference of lease to MAPPL on 12.09.2006. The amount of Rs.1,18,75,860/- which has been claimed to be paid by the CD to Magadh for registration of document on 05.03.2012 is investment by CD in the Magadh and cannot give any right to the CD. It is submitted that the SBI, who has 96% of vote share in the CoC, did not conduct any proper verification of the Lease Deed dated 24.09.2007 and at no point of time the SBI and its officials enquired from the owner of the assets, i.e. BSIDC and Magadh. The SBI has violated the RBI Guidelines regarding acceptance of security. The Adjudicating Authority has rightly passed the impugned order, which needs no interference.

11. We have considered the submissions of learned Counsel for the parties and have perused the records. The learned Counsel for the Appellant in Company Appeal (AT) (Ins.) Nos.950-954 of 2024 has filed a Common Convenience Compilation, containing materials and documents, which were on record of the Adjudicating Authority, which shall be noticed and referred by us in this judgment. Further, for deciding both the Appeal(s), it is sufficient to refer the pleadings and materials of Company Appeal (AT) (Ins.) No.950-954 of 2024.

12. The question which has arisen in this Appeal is regarding land admeasuring 344.915 acres situated in District Kodarma, which is now in the State of Jharkhand along with plant and machineries situated on it. The sequence of event indicates that the BSIDC became the successful auction purchaser in the liquidation proceedings of Gayday, which was initiated by the Calcutta high Court. The BSIDC having paid an amount of Rs.1.10 crores, the Hon'ble Supreme Court vide order dated 17.12.1982 has confirmed the auction in favour of the BSIDC and directed the remittance of Rs.1.10 crores to the Official Liquidator for distribution. It is useful to notice the order of the Hon'ble Supreme Court dated 17.12.1982, which is as follows:

“It appears from the order of the Calcutta High Court dated December 10, 1982 that only one bid was received and that was the one offered by the appellant herein, the Bihar State Industrial Development Corporation Ltd., in the sum of rupees one crore and ten lakhs. Since no other bid was received and rupees one crore and ten lakhs was the reserve bid, the bid offered by the appellant is hereby accepted and the sale confirmed. We consider the price as fair and adequate, taking into consideration all the circumstances of the case.

The sum of rupees one crore and ten lakhs which was deposited by the appellant in this court shall be remitted to the Official Liquidator who has been appointed receiver of the property which was put to sale. The Official Liquidator will disburse the amount pro rata to the State Bank of India and the Industrial Development Bank of India. The interest which has accrued on the said amount shall be paid over to the appellant.

The appellant will pay a sum of rupees one lakh towards the expenses incurred by the Official Liquidator. The rest of the

expenses shall be borne and paid by the State Bank of India and the Industrial Development Bank of India pro rata.

We reserve liberty to the parties to apply to the Calcutta High Court for necessary orders in respect of lot No. 4.

The appeal is allowed in terms of this Order. There will be no order as to costs.

We cannot, however, part with this case without saying that we are unable to understand that the learned single Judge of the High Court should have felt driven to confess to a feeling of "some difficulty in properly appreciating" the order passed by this Court. There was no occasion for the High Court to consider the context or necessity of the order passed by us since, by express language, all that we had asked the High Court to do was to hold the sale and send a report to us as to the bids received by it."

13. There is also material on record that Official Liquidator between 21.03.1983 to 23.03.1983 through his authorized representative visited the premises and handed over the possession to the BSIDC of the land, asset and machinery. However, Deed of Conveyance by Official Liquidator could be executed in favour of BSIDC only on 17.07.2009. It has been stated on behalf of the BSIDC that delay in execution of Conveyance Deed was on account of certain issues pertaining to the payment of stamp duty, where BSIDC claimed that it was not liable to pay any stamp duty for execution of the Deed. The BSIDC has subsequently executed the Conveyance Deed in favour of Magadh in March 2012. The Magadh was a Company, which was promoted by BSIDC in the year 1985 and the assets were entrusted to Magadh. The BSIDC held majority share in Magadh. The core dispute between the parties, which was agitated before the Adjudicating Authority was with regard to Lease Deed dated 24.09.2007,

which was basis of foundation of the claim of the CD and which was the document on the basis of which the CD created mortgage of its leasehold rights in favour of SBI for obtaining financial facilities from SBI. The CD itself was incorporated in the year 1999 by Nabarun Bhattacharjee and his wife Sampa Bhattacharjee. It is on the record that Magadh took financial assistance from Industrial Reconstruction Bank of India, of which the BSIDC was Guarantor. The IRBI initiated proceedings against the Magadh in Debt Recovery Tribunal, where one time settlement took place and amount fixed by DRT, was paid by the Magadh in the year 2012. The BSIDC attempted to lease out the unit to Machineries and Allied Products Pvt. Ltd. on annual rent of Rs.45.50 lakhs, but the same could not be done.

14. From the facts brought on record, following facts and events between the parties are undisputed:

- (i) The land admeasuring 344.915 acres situated at Hirodih, District Kodarma, Jharkhand with plant and machinery was asset of a Company namely - Gayday Iron and Steel Company Ltd., which went into liquidation in the year 1982 and the High Court of Calcutta appointed Official Liquidator.
- (ii) An Appeal was filed before the Hon'ble Supreme Court by Bihar State Industrial Development Corporation Ltd., in which proceeding the Hon'ble Supreme Court directed Calcutta High Court to conduct auction of the land, plant and machinery. The BSIDC has deposited Rs.1.10 crores in the

Registry of the Hon'ble Supreme Court. The Hon'ble Supreme Court permitted the BSIDC to submit its bid without depositing the amount. The Hon'ble Supreme Court vide its order dated 17.12.1982 declared the BSIDC successful purchaser of the land, assets and machinery. The amount deposited in the Supreme Court Registry was transferred to Official Liquidator for distribution.

- (iii) The Official Liquidator handed over possession of the land, building, plant and machinery to BSIDC between 21.03.1983 and 23.03.1983.
- (iv) The BSIDC along with private co-promoter incorporated Magadh Spun Pipe Ltd. on 21.01.1985. The BSIDC entrusted the land, building, plant and machinery to Magadh, of which possession was obtained from Official Liquidator. The Magadh was put in possession.
- (v) The Official Liquidator executed the Conveyance Deed of the land, plant and machinery in favour of the BSIDC on 17.07.2009, which was registered on 06.09.2011.
- (vi) The BSIDC transferred all its share held in Magadh to CD in the year 2011 for the amount of Rs.3.2 crores.
- (vii) On 05.03.2012, the BSIDC transferred its rights, title and interest of BSIDC on the said property to Magadh by Conveyance Deed dated 05.03.2012.

(viii) The CD paid a stamp duty of Rs.1,18,75,860/- for Conveyance Deed dated 05.03.2012, which was treated as investment in the Magadh by the CD.

(ix) The Magadh, who had become absolute owner of the land, plant and machinery by Conveyance Deed dated 05.03.2012 has reflected the same in its Balance Sheet ending on 31.03.2012 and has also referred certain facts pertaining to land, plant and machinery, which we shall notice hereinafter.

15. The Balance Sheet for the Financial Year 2011-12 of the Magadh was part of the record of Adjudicating Authority. The RP in its reply to one of the IA has also relied on the Balance Sheet of the Magadh of Financial Year 2011-12. The Balance Sheet of Magadh has been filed in Volume-4 of the Common Convenience Compilation. In the Notes to the Account of the Auditors' Report, in paragraph-9 certain financial statement and payments made to IRBI and certain amount given by Lessee - M/s Machineries and Allied Products Pvt. Ltd. had been mentioned. Certain amount deposited in BSIDC account by M/s Machineries and Allied Products Pvt. Ltd., who was referred to Lessee of the asset, has been captured in paragraph-9 of the Auditors' Report. The Balance Sheet also mentions signing of Lease Deed by BSIDC, Magadh and MAPPL on 12.06.2006 and also mentions the transfer of shares of BSIDC held in Magadh to CD on 04.11.20011.

16. Paragraph-9 of the Auditors' Report, which is relevant, is as follows:

“The Bihar State industrial Development Corporation Ltd. (BSIDC) and the Magadh Spun Pipes Ltd. (MSPL) entered into 99 Years lease agreement with M/S Machineries & Allied Products Pvt. Ltd. on 12.09.06 to run the Company. The Lessee gave Rs. 1,07,00,000.00 as advance lease rent and Rs. 15.16,000.00 lease rent of the time of agreement. However Rs. 1,07,00,000.00 was deposited in the BSIDC A/c by the Lessee. hence in the books of Magadh Spun Pipes Ltd. this amount has been debited to BSIDC under the head Loans & Advances and advance lease rent has been credited in the name of M/S Machineries & Allied Products Pvt. Ltd. As per Lease Agreement out of Rs. 1.07.00.000.00, Rs. 30,34,000.00 is to be retained per annum for first three years for repayment of outstanding loan of Rs. 1,07.00,000.00 due to RBI (industrial Reconstruction Bank of India). However the lease rent shall be @ Rs. 45.50.000.00 Per Year which shall be adjusted Rs. 30,34,000.00 from the advance lease rent for the first three year and the balance Rs. 15,16,000.00 shall be paid in four equal quarter during the same period. However, during the year 2008-09 the outstanding loan off Rs 1,07,00,000.00 was paid back to IRBI. As per Agreement Penal interest 9% has to be charged from the Lessee for default in payment of Lease Rent. The position of Penal Interest as at 31.03.2012 is as under-

Rent Receivable (As per Agreement)		Actual Rent Received		Differences	Interest	
Period	Amount (Rs.)	Period	Amount (Rs.)	Amount (Rs.)	Period	Amount (Rs.)
2006-07	2,275,000.00	2006-07	10,700,000.00		2006-07	32,693.00
		2006-07	1,516,000.00			
A	2,275,000.00		12,216,000.00	(9,941,999.00)		32,693.00
2007-08	4,550,000.00	2007-08	300,000.00		2007-08	112,382.00
B	4,550,000.00		300,000.00	4,250,000.00		112,382.00
2008-09	4,550,000.00	2008-09	200,000.00		2008-09	41,693.00
C	4,550,000.00		200,000.00	4,350,000.00		41,693.00
A+B+C	11,375,00.00		12,716,000.00	-		186,768.00
2009-10	4,550,000.00	2009-10	2,997,778.00		2009-10	103,646.00
D	4,550,000.00		2,997,778.00	1,552,222.00		103,646.00
A+B+C+D	16,925,000.00		15,713,778.00	-		290,414.00
2010-11	4,550,000.00	2010-11	2,100,000.00		2010-11	316,834.74

E	4,550,000.00		2,100,000.00	2,450,000.00		316,834.74
A+B+C+ D+E	20,475,000.00		17,813,778.00	2,661,222.00		607,248.74
2011- 12	4,550,000.00	2011-12	695,000.00		2011- 12	346,950.00
F	4,550,000.00		695,000.00	3,655,000.00		346,950.00
A+B+C+ D+E+F	25,025,00.00		18,506,778.00	6,516,222.00		954,198.74

As the lessee (MAPL) has already invested a huge amount towards the legal regularization, registration of said Assets of BSIDC & MSPL and this amount is yet un-settled. Further the shares of MSPL held by BSIDC were under the process of disinvestment and the original tease deed was signed by BSIDC MSPL & MAPL On 12.06.2006. The lessee was in such a circumstances was waiting for the new lease agreement to be signed now among the JSPCL, (final bidder). MSPL and MAPL. The sale/transfer of shares took place on 04.11.2011 in favour of JSPCL however ROC formalities is pending and hence the existing lease payment and the new lease agreement has been put in abeyance till date and hence the provision for lease rental receivable has become contingent in nature and hence not considered in the P/L A/C.

17. The above Balance Sheet of the Magadh of the Financial Year 2011-12, which is on the record and relied by the RP is a Balance Sheet at the time when no dispute between the CD and Magadh or BSIDC had surfaced. The Balance Sheet refers to execution of lease in favour of MAPPL on 12.06.2006 and Balance Sheet did not mention execution of any lease in favour of the CD. Rather Balance Sheet has captured transfer of shares of BSIDC held in Magadh to CD in the year 2011.

18. The Magadh, when it came to know as noted above that the SBI has filed an application under Section 14 of the SARFAESI Act before the Deputy Commissioner, who had passed an order on 20.02.2017 directing SBI to take possession of the assets, filed a Writ Petition No.2223 of 2019

before the Jharkhand High Court, in which Writ Petition Magadh had pleaded that it has not executed any Lease Deed in favour of the CD as claimed on 24.09.2007 and the Lease Deed dated 24.09.2007 claimed by the CD is forged and fabricated. The High Court noticed the case of the Magadh in the above Writ Petition, however, declined to interfere. It is useful to notice last paragraph of the judgment of the High Court dated 11.06.2019, which is as follows:

“Coming to the factual aspects involved in this case, it is admitted case of the petitioner that fraud has been committed by mortgaging the property in question by virtue of fake Lease Deed, said to have been executed on 24.07.2007 and therefore, the same, according to the petitioner, is a forged one, but the aforesaid Lease Deed is forged or not, a declaration is required to be given by appreciating the various factual aspects which is not proper to be done by this Court by exercising the power conferred under Article 226 of the Constitution of India, considering the fact that the Forum is available under Section 17 of the Act, 2002 and therefore, keeping the various pronouncements into consideration, as referred hereinabove, it is the considered view of this Court that this case is not falling under the exception to interfere with the impugned order keeping the object and aim of the SARFAESI Act, 2002 and also taking into consideration the fact that the Forum is available where even at the stage of Section 14 of the Act, 2002, the issue can be raised.

In view of the aforesaid factual aspects, as also based upon the judicial pronouncements as referred hereinabove, this Court refrains itself in exercising the jurisdiction conferred upon this Court under Article 226 of the Constitution of India, therefore, the writ petition fails and it is, accordingly, dismissed.

However, it is open to the petitioner to agitate the dispute before the Forum under Section 17 of the Act, 2002, if the petitioner so wishes.”

19. The CIRP against the CD commenced on 03.11.2021. The Magadh filed an Appeal challenging the order initiating CIRP of the CD, being Company Appeal (AT) (Ins.) No.45 of 2022. The Appeal was permitted to be withdrawn with liberty to the Magadh to file an application in the CIRP initiated by the SBI. Thereafter, the Magadh has filed application - I.A (IB) No. 1345/KB/2022 as well as Intervention Petition noted above.

20. Before proceeding further, we need to notice certain parts of the impugned order, by which the Adjudicating Authority decided all the Interventions Applications and Plan approval application by common order. In the impugned order, the Adjudicating Authority has noted contention of all Intervenors, SRA and RP. The contention of SRA has been noticed in paragraph-11. It is useful to notice the contention raised by SRA in paragraph-11 from (k) to (h), which are as follows:

“11.k. Both the BSIDCL and MSPL have alleged that the Lease Deed was a forged and fabricated document which was never executed by them, or by any person authorized by them in this regard, and no consideration was ever paid to them for the same. They have claimed that the said Koderma Land was acquired by BSIDCL in the year 1982.

1. On 05.03.2012, BSIDCL transferred the said piece of land in favour of MSPL by a deed of conveyance executed and duly registered. As the land came to be transferred in favour of the MSPL by BSIDCL in 2012, MSPL could not have acted as a joint Lessor of the Koderma Land along with BSIDCL in 2007 long 5

years before it acquired, title to the Koderma Land, which is in 2012.

m. Vexed with the alarming claim made by both BSIDCL and MSPL, the Applicant SRA was constrained to file this Intervention Application, being INVP.(IBC) No. 21/KB/2022.

n. At the time of hearing of the said Intervention Application, the SRA came to learn that one Shanti Ranjan Paul has filed an application being INVP. (IBC) No. 23/KB/2023 claiming that Koderma Land was mortgaged to him and the Original Title Deed of Koderma Land was with him.

o. Since, the SRA was not a party to any of the applications filed by BSIDCL, MSPL or Shanti Ranjan Paul, on his prayer, the said applications were directed to be served upon the SRA by this Adjudicating Authority by an order dated 11.12.2022.

p. The SRA was not aware of any dispute in respect of the Lease Deed or the Koderma Land as nothing was mentioned in the IM published by the RP about any pending litigation or dispute pertaining to the Lease Deed or the Koderma Land.

q. The pleadings and documents relied upon by BSIDCL, MSPL and Shanti Ranjan Paul in their respective applications, however, indicate the following:

i. The Lease Deed of Koderma Land dated 24th September, 2007 has been signed on behalf of BSIDCL by one "Dashrath Prasad and on behalf of MSPL by one "B.B. Lal". Whereas, the portal maintained by the Ministry of Corporate Affairs, shows that B.B. Lal was never a director of MSPL.

ii. The Lease Deed itself indicates that authority to execute was granted to one "A K Srivastava" and one "B B Lal and therefore, Shri Dashrath Prasad was never authorized to execute the Lease Deed on behalf of the BSIDCL.

iii. The said Dashrath Prasad had however, filed a selfdeclaration that he was a typist in the BSIDCL and therefore, in the ordinary course of things, he would not

have been vested with the authority to execute the Lease Deed on behalf of BSIDCL.

f. The said Deed indicates that a consideration of Rs. 16.10 crores was paid by the Corporate Debtor to BSIDCL. Whereas BSIDCL contends that it had received no consideration toward the Lease.

g. The RP was asked to disclose the financial records of the Corporate Debtor showing payment of such consideration. But till date no document have been produced to that effect.

h. In view of such, the SRA has reasons to believe that the claim put up by BSIDCL, MSPL and Shanti Ranjan Paul are baseless.”

21. The Adjudicating Authority after noticing the submission of all the parties has recorded its analysis and findings in paragraph-16. The Adjudicating Authority has observed that it is doubtful that a lease was ever created in favour of CD by Magadh as well as BSIDC, both having denied executing any lease in favour of the CD, which observation has been made in paragraph 16 (c). It is useful to notice paragraph 16 (c) to (e), which are as follows:

“16.c. It is doubtful whether a lease was ever created in favour of Magadh Spun Pipe Limited as BSIDCL has denied that, and consequently whether a lease was granted in favour of Corporate Debtor namely Jupiter Spun Pipes and Casting Pvt. Ltd. by BSIDCL and MSPL as both have specifically and assertively denied that.

d. The following list of dates would be extremely relevant for the purpose of adjudication:

i. 1982 Gayday Inn went into Liquidation by an order of Hon’ble High court.

- ii. 1982: BSIDCL claims that it a sum of Rs. 110 Lakhs to the Official Liquidator to enquire the Company (No proof of such payment is furnished.)
- iii. 1985: BSIDCL claims that it incorporated MSPL
- iv. 2005: BSIDCL took fresh initiative to reopen the factory.
- v. 24.09.2007: Jupiter Spun Pipes and Casting Pvt. Ltd. claims that BSIDCL and MSPL jointly executed a Deed in its favour. However, both BSIDCL and MSPL deny the claim.
- vi. 17.07.2009: BSIDCL claims that it became the owner of the property when a Sale Deed, was executed in its favour by Official Liquidator, which fact is not disputed by any of the parties. Thus if, BSIDCL became owner of the Koderma property in 2009.
- vii. 05.03.2012: The day when the Sale Deed of 17.07.2009 was registered.

e. It is averred by the Corporate Debtor that, in the year 2007, a Lease Deed was purportedly executed by BSIDCL in favour of Magadh Spun Pipe Limited whereas BSIDCL itself earned its title with, execution of Sale Deed Executed on 17.07.2009 by the Official Liquidator, and consequently, no absolute right in the property till 17.07.2009.”

22. The Adjudicating Authority after noticing the clauses of the Deed dated 24.09.2007, it has observed that the original Lease Deed was not produced despite repeated opportunities granted. The Adjudicating Authority also held that there is no evidence of any payment of consideration of Rs.16 crores upfront or yearly payment of lease rent, which is mentioned in the Lease Deed dated 24.09.2007. The said observation has been made in paragraph 16(l). The Adjudicating Authority in paragraph 16(m) observed that circumstances are galore that

genuinity of the Lease Deed is suspicious. Following has been observed in paragraph 16 (l) and (m):

“16.1. Although the recitals say that an upfront payment of Rs. 16 Crores was made etc., no evidence of such payment of 16 Crores upfront, or yearly payment of lease rent @ 1 Lakh per annum is produced before us. Such being the position, the claim of JSPCPL that it became a Lessee in 2007 fails to inspire confidence.

m. Insinuating circumstances are galore that makes us suspicious about the genuinity of the Lease Deed of 2007 on the basis of which the Corporate Debtor secured financial assistance.”

23. The Adjudicating Authority however has noticed the judgments of this Tribunal and Hon’ble Supreme Court to come to the conclusion that dispute with respect to fraud, manipulation coercion and forgery, cannot be decided in summary jurisdiction by the Adjudicating Authority. It was held that question of fraud and forgery cannot be gone into. The Adjudicating Authority, however, after noticing the submissions and facts as noted above, came to the conclusion that Financial Creditors have extended financial assistance on the basis of a forged document and the leasehold right of the CD are not clear, hence, the said asset cannot be included in the Information Memorandum, which observation has been made in paragraph-20 of the judgment, which is as follows:

“**20.** It seems that the Financial Creditors have extended financial assistance on the basis of a forged document. In our considered opinion Leasehold right of the Corporate Debtor being not clear, the disputed piece of land ought not to be included in the Information Memorandum as Leasehold interest of Corporate Debtor and if the said disputed land over which the Corporate Debtor has failed to

establish even its Leasehold interest, is the major asset of Corporate Debtor, the Plan cannot be approved.”

24. We have noticed the submissions of the Appellant challenging the findings and judgment of the Adjudicating Authority and the bone of contention between the parties is with regard to Lease Deed dated 24.09.2007. Both the parties have advanced submissions that question of fraud and forgery cannot be gone into by Adjudicating Authority in IBC proceedings while deciding Plan approval application and Intervention Applications, as noted above. It is well settled that fraud and forgery are issues, which require evidence to be taken for returning any finding of fraud and forgery. The Adjudicating Authority conducts the IBC proceedings in accordance with the IBC and CIRP Regulations and it cannot act as a Civil Court to enter into issues of fraud and forgery, take evidence and return any findings. However, whether an asset, which is claimed by the CD is asset of the CD, is a question, which needs to be considered and answered by the Adjudicating Authority and Adjudicating Authority has ample jurisdiction to decide the issue whether the particular asset, which is claimed by the CD as its asset can be treated to be asset of the CD or not. However, above is with a caveat that while deciding such question, the Adjudicating Authority cannot embark upon the issues pertaining to fraud and forgery. Any document, which is alleged to have been obtained by fraud or manipulation, becomes a voidable document, which requires a declaration to lose its enforceability. However, when a document can be established as void or unenforceable, it does not require any declaration. Thus, the limited jurisdiction, which

can be exercised by the Adjudicating Authority is as to whether any document claimed in the proceedings is void or unenforceable. We have to consider the submissions of the parties in the light of the above principles, which are well established.

25. As noted above, the bone of contention between the parties are on the Lease Deed dated 24.09.2007, which is claimed to have been executed in favour of the CD, on the basis of which the CD claims leasehold rights, which was shown by the RP in the Information Memorandum. On the other hand, both BSIDC and Magadh have denied to have executed the said Deed and further denied to have received any consideration as was claimed in the document.

26. Both BSIDC and Magadh claimed that people who claimed to have executed the Deed on their behalf were unauthorized. Thus, the Deed executed by unauthorized persons, has no sanctity in law. The Deed dated 24.09.2007 is filed in Volume-1 of the Common Convenience Compilation, which is claimed to be executed by Magadh Spun Pipe Limited and Bihar State Industrial Development Corporation Limited (as one part) and M/s. Jupiter Spun Pipes & Casting Private Ltd. (as other part). The photocopy of Deed was on the record of the Adjudicating Authority and the registered copy of the Deed also permitted to be taken on record under the order of this Tribunal dated 08.08.2025 as noted above. There is no difference between photocopy of the Deed, which was on the record of the Adjudicating Authority and the registered document brought on the record in this Tribunal. There are two issues raised with

regard to Deed, i.e. (1) Whether Deed has been executed by authorised person on behalf of BSIDC and the Magadh; and (2) Whether consideration of the Lease Deed of Rs.16 crores and the lease rent of Rs.1 lakh per annum and advance of Rs.10 lakhs has been successfully proved.

27. The Lease Deed dated 24.09.2007 indicates that it has been executed by one Dashrath Prasad, Special Assistant on behalf of BSIDC. The Lease Deed dated 24.09.2007, itself noticed the details of the liquidation proceedings of M/s Gayday Iron and Steel Co. Ltd. and the order of the Hon'ble Supreme Court that possession was given by the Official Liquidator on 21.03.1983 to the BSIDC. The Lease Deed dated 24.09.2007 at page-11 has noticed the 299th meeting of the Board of Directors held on 11.09.2006, where one Sri A.K. Srivastava, Chief Manager (Project) and Shri B.B. Lal, Chief Manager (H.O.) were authorised to execute, sign and register the Deed of Lease and hand over the assets and properties of MSPL to the Lessee. Following has been noticed in the Lease Deed at page-11:

“AND WHEREAS BSIDC in its 299th meeting of the Board of Directors held on 11.09.2006 considered the decision of the Government communicated vide letter No.3299 dated 8.09.2006, the government has no objection of BSIDC proposal sent to the Government pertaining to leasing out of MSPL to the Lessee herein. In the said meeting it was resolved that the assets and properties of MSPL, Hirodih be leased out to the Lessee as per approved draft. It was also resolved that Sri A.K. Srivastava, Chief Manager (Project) and Sri B.B. Lal, Chief Manager (H.O.) were authorised to execute,

sign and register the Deed of Lease and hand over the assets and properties of MSPL to the Lessee herein.”

28. The above indicate that two Officers namely – Shri A.K. Srivastava, Chief Manager (Project) and Shri B.B. Lal, Chief Manager (H.O) were authorised to execute the lease on behalf of BSIDC. Whereas lease dated 24.09.2007 on behalf of BSIDC is executed by one Dashrath Prasad, Special Assistant. It has been brought on record that Dashrath Prasad is only a Typist in the BSIDC. A declaration dated 13.02.2013 by Dashrath Prasad has been brought on record at Volume-5 of Common Convenience Compilation at page-913, which declaration was made by Dashrath Prasad, who was working as Typist. Thus, according to the statement in the Lease Deed itself, only authorised person by BSIDC, who were authorised to execute the Lease Deed were Shri A.K. Srivastava, Chief Manager (Project) and Shri B.B. Lal, Chief Manager (H.O.). Lease having not been executed by authorized persons, as per the statement in the Lease itself and has been executed by one Dashrath Prasad, Special Assistant, who has been working as a Typist in the BSIDC, which is clear from declaration issued on 13.02.2013 by the said Dashrath Prasad, the Lease is clearly executed by unauthorized persons and the objection by BSIDC that the Lease was not executed by any authorized person on behalf of BSIDC is fully justified.

29. Now, we come to another statement in the Lease Deed where on behalf of Magadh it was resolved Shri J.S. Misra and Shri B.B. Lal, subject to approval of Board of Directors of BSIDC, shall execute, sign

and register the Deed of Lease on behalf of Magadh. The said statement is at page-12 of the Lease Deed dated 24.09.2007, which is to the following effect:

“AND WHEREAS MSPL in its meeting of the Board of Directors held on 08.09.2006 pertaining to leasing out of the properties and assets of MSPL to the Lessee, decided that the assets and properties of MSPL be leased out to the Lessee as per approved draft duly vetted by Senior Advocate of BSIDC. It was also resolved that Sri J.S. Misra and Sri B.B. Lal, Director on behalf of MSPL, Subject to approval of Board of Directors of BSIDC who is the major shareholder of MSPL, were authorised to execute, sign and register the Deed of Lease and hand over the assets of MSPL to the Lessee herein.”

30. The said statement itself mentions that Shri J.S. Misra and B.B. Lal were authorized subject to approval of Board of Directors of BSIDC. Neither any approval of Board of Directors of BSIDC is referred, nor J.S. Misra has executed the Lease Deed. Lease Deed is claimed to be executed by one B.B. Lal, Director on behalf of Magadh. It was submitted on behalf of Respondents that B.B. Lal was not the Director of Magadh and had no authority to execute the Lease on behalf of the Magadh. The declaration in Volum-3, page-453 of Common Convenience Compilation on Form-20B, which was submitted by the Magadh has been brought on the record, which Form-20B mentions the name of Managing Directors as Vijoy Prakash; Shri Manoranjan Prasad Choudhary, Director; Shri Arvind Kumar Srivastava; Director; and Shri Jai Shanker Mishra; Nominee-Director. Shri B.B. Lal was not mentioned as Director. No material has been brought on record to show that B.B. Lal was Director of the Magadh

and was entitled to execute the Lease Deed. Further, as noted above, as on 24.09.2007, it was BSIDC who was successful auction purchaser and who was handed over possession by the Official Liquidator in the year 1983 and the BSIDC has incorporated Magadh in the year 1985 and entrusted the assets to Magadh. Magadh had no rights of its own in the assets. Thus, we are satisfied that Lease Deed dated 24.09.2007 was not executed by authorised person on behalf of the BSIDC and the Magadh, hence, no right can be accrued to the CD on the basis of above document dated 24.09.2007.

31. Second issue is with regard to consideration. The Deed dated 24.09.2007 mentions about the upfront payment of Rs.16 crores and at page-18 of the Deed under the heading 'Memo of Consideration', following has been stated:

“MEMO OF CONSIDRATION

RECEIVED of and from the withinnamed Lessee the withinmentioned sum of Rs.16,00,00,000/- (Rupees Sixteen crores only) in full payment of withinstated consideration money/ upfront payment as per Memo Below:-

- | | | |
|----|--|-------------------|
| 1. | Paid by cheque No.316510 dated 21.09.2006 drawn on Syndicate Bank, Salt Lake Branch in favour of BSIDC
(Receipt No.412 dated 22.09.2006 issued by BSIDC to JSPCL) | Rs.1,50,00,000.00 |
| 2. | Paid by cheque No.316518 dated 28.09.2006 drawn on Syndicate Bank, Salt Lake Branch in favour of BSIDC
(Receipt No.416 dated 28.09.2006 issued by BSIDC to JSPCL) | Rs.2,00,00,000.00 |
| 3. | Paid by cheque No.316523 dated 16.10.2006 drawn on Syndicate Bank, | |

	Salt Lake Branch in favour of BSIDC (Receipt No.427 dated 26.10.2006 issued by BSIDC to JSPCL)	Rs.3,00,00,000.00
4.	Paid by cheque No.316528 dated 26.10.2006 drawn on Syndicate Bank, Salt Lake Branch in favour of BSIDC (Receipt No.431 dated 27.10.2006 issued by BSIDC to JSPCL)	Rs.1,80,00,000.00
5.	Paid by cheque No.316535 dated 03.11.2006 drawn on Syndicate Bank, Salt Lake Branch in favour of BSIDC (Receipt No.435 dated 06.11.2006 issued by BSIDC to JSPCL)	Rs.3,70,00,000.00
6.	Paid by cheque No.316547 dated 16.10.2006 drawn on Syndicate Bank, Salt Lake Branch in favour of BSIDC (Receipt No.442 dated 15.11.2006 issued by BSIDC to JSPCL)	Rs.2,25,00,000.00
7.	Paid by cheque No.316555 dated 20.11.2006 drawn on Syndicate Bank, Salt Lake Branch in favour of BSIDC (Receipt No.449 dated 21.11.2006 issued by BSIDC to JSPCL)	Rs.1,75,00,000.00
	Rupees Sixteen crores only TOTAL:	Rs.16,00,00,000.00”

32. Both BSIDC and Magadh have refuted to have received any consideration as claimed in the Deed dated 24.09.2007. A perusal of the above statement indicates that consideration claimed to be paid by cheque drawn on Syndicate Bank, Salt Lake Branch in favour of BSIDC. The Syndicate Bank was subsequently merged with Canara Bank. The Statement of Account from the Canara Bank, Salt Lake Branch has been brought on the record, which statement is from 01.01.2000 to 03.03.2022 at page 73 of the Common Convenience Compilation, Vol.1, which is as follows:

"STATEMENT OF ACCOUNT

CANARA BANK

ACCOUNT BRANCH : 19590-SALT LAKE CITY, KOLKATA 70054

DATED 03-03-22 11: 35 35 AM

IFSC : CNRB0019998

MICR : 700015144

Account No. : ****

Product Name : CURRENT ACCOUNT RURAL-SEMIURBAN

Customer ID : ****

Customer Name : JUPITER SPUN PIPES CASTING PVT. LTD.

AB 200 SECTOR 1 SALE LAKE

SALT LAKE

KOLKATA

KOLKATA

WEST BENGAL

IN

700054

Nominee Reference num: -

Nominee Name :

Account Title : JIPITER SPUN PIPES

Person's Name

Period: 01-01-2000 TO 03-03-2022

Name Currency: INDIAN RUPEES

TRANS DATE	VALUE DATE	BRANCH	REF/CHQ.NO	DESCRIPTION	WITHDRAWS	DEPOSIT	BALANCE
01-JAN-00	01-JAN-00	0		B/F ..	0.00	0.00	0.00
21-APR-07	21-APR-07	19598		CASH DEPOSIT	0.00	5,000.00	5,000.00
08-AUG-07	10-AUG-07	19598	000000180945	BY CLG ANB	0.00	20,000.00	25,000.00
30-AUG-07	09-AUG-07	19598	000000000000	SC/BANKER CERTIFICATE	100.00	0.00	24,900.00
11-AUG-07	11-AUG-07	19598		CH 219101	10,000.00	0.00	14,900.00
13-AUG-07	13-AUG-07	19598		SELF C N 219102	5,500.00	0.00	9,400.00
20-AUG-07	20-AUG-07	19598		SELF C N 219103	1,500.00	0.00	7,900.00
24-AUG-07	24-AUG-07	19598		CASH DEPOSIT	0.00	9,000.00	18,900.00
24-AUG-07	24-AUG-07	19590	000000219104	TO CLG TM CONSULT	15,000.00	0.00	1,900.00
25-AUG-07	25-AUG-07	19598		A MUKHERJEE/C N 219105	300.00	0.00	1,600.00
30-AUG-07	30-AUG-07	19598	000000602459	BY TR NABARUN 9582010055242	0.00	75,000.00	76,600.00
31-AUG-07	31-AUG-07	19598		CH W/D SC(FOLIO CHG)	3.00	0.00	76,597.00
01-SEP-07	01-SEP-07	19598		SELF C MN 219106	20,000.00	0.00	56,597.00
03-SEP-07	03-SEP-07	19598		CH 219107	50,000.00	0.00	6,597.00
05-SEP-07	05-SEP-07	19598		CASH WITHDRAWAL	5,000.00	0.00	1,597.00
31-OCT-07	31-OCT-07	19598		MIN BAL CHGS	113.00	0.00	1,484.00
31-NOV-07	30-NOV-07	19598		MIN BAL CHGS	113.00	0.00	1,371.00
31-DEC-07	31-DEC-07	19598		MIN BAL CHGS	113.00	0.00	1,258.00
07-JAN-08	02-JAN-08	19598		MIN BAL CHGS	113.00	0.00	1,145.00
02-JAN-08	02-JAN-08	19598		CA A/C CLOSURE	29.00	0.00	1,116.00

TRANS DATE	VALUE DATE	BRANCH	REF/CHQ.NO	DESCRIPTION	WITHDRAWS	DEPOSIT	BALANCE
02 JAN-08	02 JAN-08	19598	000000000000	PO NO 721375	1,116.00	0.00	0.00

Statement Summary

Opening Balance	Total Debit Amount	Total Credit Amount	Debit Count	Credit Count	Closing Balance	Unclear Balance	Sweep-in Balance
0.00	100,000.00	100,000.00	16	4	0.00	0.00	0.00

UNLESS THE CONSTITUENT BRINGS TO THE NOTICE OF THE BANK ANY DISCREPANCIES / OMISSION/ ERRORS/ UNAUTHORISED DEBITS IMMEDIATELY. THE ENTRIES IN SUCH PASS SHEET SHALL BE DEEMED AS CORRECT AND SHALL BIND THE CONSTITUENT FOR ALL PURPOSE AND INTENTS. BEWARE OF PHISHING ATTACKS THROUGH EMAILS AND FAKE WEBSITES.

IMB FACILITY USERS ARE REQUESTED TO NOTE THAT CANARA BANK DOES NOT SEEK ANY INFORMATION THROUGH EMAIL. DO NOT CLICK ON ANY LINK WHICH HAS COME THROUGH EMAIL FROM UNEXPECTED SOURCES. IT MAY CONTAIN MALICIOUS CODE OR COULD BE AN ATTEMPT TO PHISH. ALWAYS LOGIN THROUGH WWW.CANARABANK.IN. PLEASE BEWARE OF PHISHING. CHANGE IN THE ADDRESS OF ACCOUNT HOLDER/PA HOLDER, IF ANY, MAY PLEASE BE INFORMED TO THE BRANCH ALONG WITH ADDRESS PROOF.

For Glacis

Deputy of Ombudsman The Banking Ombudsman
C/o RBI, 10/3/8
Munipalunga Road
Bangalore
Bangalore
560001
Tel: 0000 / 0000 Fax: 0
E-mail: tdbangalore@rbi.org.in

ARE YOU A MERCHANT/ TRADER / RETAILER / SMALL VENDOR. USE DIGITAL PAYMENT CHANNEL TO RECEIVE PAYMENTS FROM YOUR CUSTOMERS. CONTACT MANAGER FOR MORE DETAILS. GO CASHLESS / CARDLESS. COMPUTER OUTPUT DOES NOT REQUIRE SIGNATURE.

33. The said Statement of Account indicates that there were no debit of any of the cheques referred to in the Deed dated 24.09.2007. The Adjudicating Authority in the impugned order has also noticed the submission of the SRA and has observed that RP, who was asked to disclose the financial records of the CD showing payment of consideration, but till date no document has been produced to that effect. Paragraphs 11(g) and 16(l) of the impugned order are as follows:

“11.g. The RP was asked to disclose the financial records of the Corporate Debtor showing payment of such consideration. But till date no document have been produced to that effect.

16.l. Although the recitals say that an upfront payment of Rs. 16 Crores was made etc., no evidence of such payment of 16 Crores

upfront, or yearly payment of lease rent @ 1 Lakh per annum is produced before us. Such being the position, the claim of JSPCPL that it became a Lessee in 2007 fails to inspire confidence.”

34. Both the BSIDC and Magadh have pleaded before the Adjudicating Authority that no consideration was ever received for leasing the land in favour of the CD and consideration mentioned in the Deed were never received by BSIDC. The CD/RP have not brought anything on record to indicate that payments as referred to by different cheques in the Deed dated 24.09.2007 was actually received by the BSIDC. When RP or the CD failed to prove payment of any upfront consideration of Rs.16 crores and lease rental of Rs.10 lakhs as mentioned in the Deed, it cannot be said that BSIDC has validly transferred its leasehold right to the CD. The above discussion indicate that the alleged Lease dated 24.09.2007 becomes unenforceable and void on both the counts, i.e. having not been executed by authorised person as per the Lease Deed itself by the BSIDC and no proof of huge consideration of Rs.16 crores upfront payment and Rs.10 lakhs advanced lease rent has been brought on record and in the absence of such proof, it cannot be held to transfer any leasehold rights in the assets to the CD and Adjudicating Authority has rightly after considering all facts and circumstances has taken the view that land admeasuring 344.915 acres at Hirodih, District Kodarma, Jharkhand with plant, building and machinery cannot be treated to be the assets of the CD. It is also relevant to notice that Magadh has already filed a FIR against the officials of the CD and the SBI and the investigation is pending. Magadh after coming to know of the order dated 20.02.2017 of

Deputy Commissioner for taking possession of the assets of Magadh, had immediately filed Writ Petition and had at very first instance pleaded that Lease Deed was never executed by Magadh and it is a forged and fabricated document. The CIRP against the CD was initiated only in the year 2019, whereas before initiation of CIRP Magadh has already pleaded that the document dated 24.09.2007 is forged, fabricated and unauthorized.

35. We have already noticed the Balance Sheet of the Magadh ending on 31.03.2012, where details of certain amount for leasing the said asset to Machineries and Allied Products Pvt. Ltd. have been noticed. Transfer of shares in 2011 in favour of the CD by BSIDC has also been noticed. But there is no mention of Lease Deed dated 24.09.2007. Further, both the Conveyance Deed executed by the Official Liquidator to BSIDC and Conveyance Deed executed by BSIDC in favour of Magadh, did not mention the Lease Deed dated 24.09.2007. In totality and circumstances of facts as brought on the record, the Adjudicating Authority rightly was not satisfied about the rights of the CD in the asset in question. The mere fact that SBI relying on the said Deed dated 24.09.2007, sanctioned the financial facilities or disbursed the amount, cannot cloth any additional strength to the Lease Deed dated 24.09.2007. When the Lease Deed dated 24.09.2007 claimed by the CD is unenforceable and void for the reasons indicated above, we are of the view that order of Adjudicating Authority impugned in the Appeal has been passed after due consideration of all relevant factors and deserves to be upheld. We,

however, observe that order of the Adjudicating Authority and this judgment shall not preclude the SBI to take such other measures to recover its dues from the CD as permissible in law.

36. In view of the foregoing discussions and conclusions, we are of the view that no grounds have been made out to interfere with the impugned order passed by Adjudicating Authority dated 14.03.2024. All the Appeal(s) are dismissed. Parties shall bear their own costs.

[Justice Ashok Bhushan]
Chairperson

[Barun Mitra]
Member (Technical)

NEW DELHI

19th August, 2025

Ashwani