

IN THE NATIONAL COMPANY LAW TRIBUNAL
BENGALURU BENCH
(Through web-based video conferencing platform)

ITEM No.11
I.A No. 56 of 2022 in
CP (IB) No.157/BB/2019

IN THE MATTER OF:

M/s. Meditek Systems
Vs.

... Petitioner

M/s. Panacea Hospitals Pvt Ltd

... Respondent

Order under Section 9 of Insolvency and Bankruptcy Code, 2016

Order delivered on 16.02.2022

CORAM:

SH. AJAY KUMAR VATSAVAYI
HON'BLE MEMBER (JUDICIAL)

SH. MANOJ KUMAR DUBEY
HON'BLE MEMBER (TECHNICAL)

PRESENT:

For the Applicant/ Liquidator :	Sh. Varun S
The Liquidator :	Smt. Bhuvaneshwari Ramanathan
For the Respondent Nos.1 & 2 :	Sh. D.R Ravishankar, Senior Counsel
For the Respondent No.3 :	Sh. Akshay Jain
For SBI :	Smt. Chithra Nirmala

ORDER

1. This Application has been filed by the Liquidator of M/s. Panacea Hospitals Pvt Ltd against the Respondent Nos. 1 to 3, who are the owners of the Premises of building No. 333, 334 and 335 respectively, seeking the following reliefs :

- i. Allow this Application and direct the Respondents to accommodate the Corporate Debtor's assets/medical equipment on their property for a period of 6 (Six) months from the date of receipt of the order of Liquidation (07.02.2022) which ends on 06.08.2022; and

— Sd —

- ii. Pass any other orders as may be deemed fit and proper in the circumstances of the case.
2. Heard Shri Varun.S, learned Counsel for the Liquidator along with Smt. Bhuvaneshwari Ramanathan, Liquidator in person and Shri D.R Ravishankar, learned Senior Counsel for the Respondent Nos. 1 & 2 and Shri Akshay Jain, learned Counsel for the Respondent No.3.
3. It is submitted that the CP (IB) No. 157/BB/2019 filed by M/s. Meditek Systems U/s. 9 of the IBC, 2016 was admitted on 17.10.2019 and CIRP was initiated against the Corporate Debtor. The Respondent Nos. 1 & 2 filed I.A No. 531 & 532 of 2020 before this Adjudicating Authority seeking a direction to Resolution Professional for removal of equipments belonging to the Corporate Debtor and handover the respective premises to the said Respondents. These Applications were dismissed by order dated 04.01.2021. Aggrieved with the said order, the Respondent Nos. 1 & 2 filed W.P Nos. 3729 and 3731 of 2021 before the Hon'ble High Court of Karnataka. By a common order dated 28.04.2021, the Hon'ble High Court of Karnataka directed the RP to remove the medical equipments and hand over possession of the property to the Respondent Nos. 1 & 2 within eight weeks from the date of receipt of the copy of the said order. Aggrieved by the said common order dated 28.04.2021, the RP preferred Special Leave Petitions bearing S.L.P (C) Nos. 7994 & 7995 of 2021 before the Hon'ble Supreme Court and vide order dated 20.10.2021, the Hon'ble Supreme Court refused to interfere with the orders of the Hon'ble High Court, however granted a period of four months from the date of the said order to the RP to remove the medical equipments and handover the possession of the property as directed by the Hon'ble High Court. The Order dated 20.10.2021 of the Hon'ble Supreme Court reads as under:

"Having heard learned Counsel for the parties, while we are not inclined to interfere with the impugned order, we are inclined to grant a period of four months to the Petitioner to remove the medical equipments and hand over possession of the property as directed by the High Court.

— Sd —

Accordingly, we extend the period granted by the High Court by a period of four months from today.

As regards the complaint of the Petitioner that being a Resolution Professional, it is benefit of funds of his own, it is for the Petitioner to take recourse to such remedies in this regard as are provided in law.

Subject to the aforesaid observations, the special leave petitions are dismissed.

Pending applications stand disposed of.”

4. It is further submitted that immediately after the order of the Hon'ble Apex Court, the RP convened the meeting of the CoC on 29.10.2021 seeking the approval of the CoC for funding the shifting expenses to comply with the order dated 20.10.2021 of the Hon'ble Apex Court. However, the CoC in its 17th Meeting held on 02.11.2021 did not approve the resolution for funding the expenses for shifting of the equipments of the Corporate Debtor. On the other hand in its 18th Meeting held on 06.11.2021 resolved with the requisite majority of voting for commencing of the liquidation process in respect of the Corporate Debtor. Accordingly, vide order dated 31.01.2022 this Adjudicating Authority in I.A No. 355 of 2021 passed order for Liquidation of the Corporate Debtor and appointed Smt. Ramanathan Bhuvaneshwari as Liquidator in place of Mr. K.N Ravindra, the RP. In terms of the said order the Liquidator took charge on 07.02.2022 and commenced the Liquidation Process. However, since unless the claims are collated and Financial Creditors are determined there is no chance of seeking contribution of Liquidation expenses from the Financial Creditors, as per their proportionate shares, and as there was no sufficient time left for the compliance of the orders of Hon'ble Apex Court, the Liquidator filed the instant I.A seeking extension of time for a further period of six months from the date of receipt of the Liquidation order i.e. 07.02.2022 to remove the asset/medical equipments of the Corporate Debtor from the Premises of Respondent Nos. 1, 2 & 3.

— Sd —

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5. The order of vacation of the premises of the Respondents was passed by the Hon'ble High Court of Karnataka on 28.04.2021 and the said order was upheld by the Hon'ble Apex Court by order dated 20.10.2021. The original time granted by the Hon'ble High Court was extended by Hon'ble Apex Court by a period of four months i.e. from the date of its order dated 20.10.2021. The applicant by way of the instant Application is seeking a direction from this Adjudicating Authority to extend the time granted by the Hon'ble Apex Court.
6. Shri D.R Ravishankar, Learned Senior Counsel for the Respondents No.1 & 2 opposed the I.A on various grounds.
7. The Learned Counsel appearing for the Applicant at this stage, while submitting that the Corporate Debtor is a hospital, though not a going concern and the equipments to be removed are valuable medical equipments and since the Liquidator has no time to take appropriate steps, as her appointment was done recently, prays for passing stay orders for a limited period, i.e. till the Liquidator approach the Hon'ble Apex Court for filing appropriate application. It is submitted that the time for removal of equipments as granted by the Hon'ble Apex Court is going to expire on 19.02.2022.
8. In normal circumstances though this Adjudicating Authority have all powers to pass appropriate orders/directions with regard to all matters concerning with CIRP or Liquidation of Corporate Debtor, however, in our considered opinion, since, the instant I.A is filed seeking extension of time granted by the Hon'ble Apex Court, the Liquidator is required to approach the Hon'ble Apex Court only if she is advised to seek any extension of time or in any manner to modify the order dated 20.10.2021 in S.L.P (C) Nos. 7994 & 7995 of 2021 of Hon'ble Apex Court.

— Sd. —

9. In the circumstances and for the aforesaid reasons the instant I.A is disposed of by granting liberty to the Applicant to approach the Hon'ble Apex Court in accordance with law.
10. The Registry is directed to issue the certified copy of this order to all the parties forthwith.

— Sd —

(MANOJ KUMAR DUBEY)
MEMBER (TECHNICAL)

Brunda

— Sd —

(AJAY KUMAR VATSAVAYI)
MEMBER (JUDICIAL)