

NATIONAL COMPANY LAW TRIBUNAL
COURT-I, MUMBAI BENCH

Item 47

IA 3429/2022 IA 2820/2022 IN C.P./(IB)/1385/MB/2017

CORAM:

SH. SHYAM BABU GAUTAM
HON'BLE MEMBER (T)

JUSTICE P.N. DESHMUKH (Retd.)
HON'BLE MEMBER (J)

ORDER SHEET OF THE HEARING ON **21.11.2022**

NAME OF THE PARTIES: - **Ericsson India Private Limited VS Reliance Infratel Limited**

Appearance (via video-conference):

For the Applicant – IA 3429 : Senior Counsel Mr. Vikram Nankani a/w. Deepak Deshmukh, Jahan Chokshi, and Hrishikesh Nadkarni, i/b. Naik Naik and Co.

For R12 & R14 – IA 3429 : Chetan Kapadia, Siddharth Ranade, Nishi Bhankharia, Kaazvin Kapadia i/b Trilegal

For R6 & R31 – IA 3429 : Adv. Rohan Rajadhyaksha a/w Adv. Vatsala Rai, Adv. Nafisa Khandeparkar, Adv. Bharat Makkar, Adv. Harshil Goa and Adv. Madhur Arora i/b AZB & Partners

For R2 & R3 – IA 2820 : Adv. Rohan Rajadhyaksha a/w Adv. Vatsala Rai, Adv. Nafisa Khandeparkar, Adv. Bharat Makkar, Adv. Harshil Goa and Adv. Madhur Arora i/b AZB & Partners

For R2, R4 & R5 – IA 3429 : Mr. Dhruv Malik i/b Juris Corp along-with Ms. Smriti Jha, Ms. Jinal Shah and Ms. Palak Nenwani, Advocates

For R1 – IA 3429 : Senior Advocate Mr. Gaurav Joshi, Ms. Fatema Kachwalla and Virgil Briganza i/b. J. Sagar Associates

For erstwhile RP : Meghna Rajadhyaksha, Rishabh Jaisani, Kriti Kalyani i/b Shardul Amarchand Mangaldas & Co

For Industrial & Commercial Bank of China Shenzhen Branch: Chetan Kapadia, Siddharth Ranade,

Nishi Bhankharia, Kaazvin Kapadia i/b
Trilegal
For R1 – IA 2820 : Ms. Jinal Shah and Ms. Palak Nenwani
advocates i/b Juris Corp

Section 60(5) & 9 of the IBC, 2016

ORDER

IA 3429/2022

This is an Application filed by Reliance Projects & Property Management Services Limited (formerly known as Reliance Digital Platform & Project Services Limited), who happens to be Successful Resolution Applicant herein. In this Interlocutory Application, the Applicant has arrayed 33 Respondents as a party. It is seen from the record that the matter was listed on Board on 17.11.2022, on which date Respondent Nos. 2, 4 & 5, who are arrayed as a party Respondent in the present Interlocutory Application, sought time to place on record Affidavit in Reply. On 17.11.2022, Counsel for Respondent Nos. 6 & 31, submitted that though she has no objection to this Interlocutory Application, she wants to place on record short Affidavit in Reply to the present Interlocutory Application. Time was granted to place on record Affidavits in Replies, well before the adjourned date and the matter was posted for hearing on 21.11.2022. Today, when the matter was called upon for hearing, Counsel for Respondent Nos. 6 & 31, orally submitted that they have no objection to the present Interlocutory Application. However, it is observed from the record that even after granting opportunity to the Respondents to place on record Affidavit in Replies before the adjourned date, none of the Respondents have placed on record Replies.

The Counsel representing the Industrial and Commercial Bank of China, having address at 55 Fuxingmennei Street, Xicheng District, Beijing, China – 100140, has also invited our attention that they should also be made as party Respondent in the present Interlocutory Application and has also stated no objection to the present Interlocutory Application. Counsel representing different Respondents has also expressed their willingness and recorded their no objection to open an Escrow Account in the State Bank of India except Respondent Nos. 2, 4 & 5, who choose not to place on record Affidavit in Reply, orally submitted that the money should be deposited in any other Bank/neutral Bank except State Bank of India. Considering the sense of the majority stakeholders of the Respondents herein, who have expressed their willingness to open an Escrow Account in the State Bank of India, the apprehension shown by the Respondent Nos. 2, 4 & 5, is uncalled for and devoid of merits; hence, the same cannot be accepted.

Accordingly, this Bench is of the view that an Escrow Account should be permitted to be opened in the State Bank of India, and the total value of the Resolution Plan should be deposited in that account. Further, the distribution of the amount so deposited in the Escrow account shall be in terms of the order passed by the Hon'ble Apex Court and after obtaining permission/orders from this Bench.

Monitoring Committee and the Respondents herein is also directed to make all endeavours to implement the Resolution Plan as quickly as possible, adhering timeline. As regards 'issuance of No Dues Certificates' to the Applicant, same shall be done at the time of distribution and in accordance with the order of the Hon'ble Apex Court. With the aforesaid observation the

Interlocutory Application bearing IA No. 3429 of 2022, is allowed in terms of prayer clause “[b), (c) & (d)].

Ld. Counsel for the Applicant is granted liberty to carry out necessary amendment thereby adding “Industrial & Commercial Bank of China, Shenzhen Branch” as Respondent No. 34 to the Present Interlocutory Application. The amended Copy of the Interlocutory Application be served on the Counsel for the newly added Respondent, who waives service on behalf of the said Respondent and also stated no objection to the prayer clause [(b), (c) & (d)] of the present Interlocutory Application.

IA 2820/2022

List this Application on Board on 15.12.2022, for further consideration and hearing.

Sd/-

SHYAM BABU GAUTAM
Member (Technical)

Vedant Kedare

Sd/-

JUSTICE P.N. DESHMUKH
Member (Judicial)