

IN THE NATIONAL COMPANY LAW TRIBUNAL, NEW DELHI
COURT-V

Item No.-5

IB-1731/ND/2019

IA/4520/2021

IN THE MATTER OF:

Mayoga Investment Ltd.

Vs.

M/s MK Overseas Pvt. Ltd.

.....Respondent

....Applicant

SECTION

U/s60(5) of IBC

Order delivered on 27.04.2023

CORAM:

**SHRI P.S.N PRASAD,
HON'BLE MEMBER (JUDICIAL)**

**SHRI RAHUL BHATNAGAR,
HON'BLE MEMBER (TECHNICAL)**

PRESENT:

For the Applicant :

For the Respondent :

ORDER

Order pronounced in open Court vide separate sheets.

IA/4520/2021in IB-1731/ND/2019 **is dismissed.**

Sd/-

**(RAHUL BHATNAGAR)
MEMBER (T)**

Sd/-

**(P.S.N PRASAD)
MEMBER (J)**

IN THE NATIONAL COMPANY LAW TRIBUNAL
NEW DELHI BENCH (Court-V)

IA 4520 (ND)/2021
IN
C.P. (IB) No. 1731 of 2019

IN THE MATTER OF:

Mayoga Investment Limited

... Financial Creditor

Versus

MK Overseas Private Ltd.

... Corporate Debtor

And IN THE MATTER OF

M/s M K Overseas Export Pvt. Ltd. Applicant

Versus

Suresh Kumar Jain

... Resolution Professional/ Respondent

Order Pronounced on: 27.04.2023

CORAM :

SHRI. P.S.N. PRASAD, HON'BLE MEMBER (JUDICIAL)

SHRI. RAHUL BHATNAGAR, HON'BLE MEMBER (TECHNICAL)

PRESENT:

FOR THE RP (Suresh Kumar Jain) : Mr. Anoop Prakash Awasthi, Adv.

For MK Overseas Export Pvt. Ltd : Mr. Kumar Mihir, Adv.

ORDER

PER SHRI P.S.N. Prasad, Member (J)

IA No. 4520 of 2021

1. This application was filed by MK Overseas Exports Pvt. Ltd. (**Applicant**) as a lessee to Corporate Debtor MK Overseas Pvt. Ltd. for the property situated at village Samgholi, Tehsil Dera Bassi, District SAS Nagar, Mohali Punjab as given in Lease Deed dated 18.10.2018 effective from 01.11.2018 for two years and eleven months ending on 30.09.2021.
2. Applicant submitted that request has been made by them to Resolution Professional (Respondent herein) of Corporate Debtor to renew the lease deed for the integrated abattoir-cum- meat processing plant having registration number APEDA/55 situated at 7th Km stone, Samgoli Dera Bassi Link Road, SAS Nagar, Mohali, Punjab.
3. Applicant sought extension/ renewal of Lease Deed for a period of 6 months or till the approval of Resolution plan, whichever is earlier. Respondent vide email stated that the resolution plan has been approved by CoC with requisite majority in 20th CoC Meeting held on 27.11.2020 and it is not possible to call the CoC meeting for the purpose of Renewal of Lease Deed at this juncture since CIR Proceedings are on its last leg.
4. We are therefore of the view that it is without taking taking into consideration the contentions made by RP that the Lease Deed was a sham document, the payment in respect of rent as per Lease Deed was paid to Ex-directors of Corporate Debtor & it is a willful attempt by directors to retain the possession of property mentioned above and also not taking into account the contentions made by Applicant that they have invested 4.5 Crores in the said project, RP did not renew the

licenses deliberately or questioning the fideistic obligations of Resolution Professional and without going into the merits, as prayed by applicant in the application for extending/renewing the lease for a period of 6 (six) months or till the Resolution Plan is approved and the Resolution Applicant whose plan is approved comes forward to take over the plant whichever is earlier, we find that the present application has become infructuous due to lapse of time. The application is therefore **dismissed as the prayer of extension of lease for further six months has become infructuous as more than six months are over in month of April 2022.**

Sd/-

(RAHUL BHATNAGAR)
MEMBER(T)

Sd/-

(P.S.N PRASAD)
MEMBER(J)