



IN THE NATIONAL COMPANY LAW TRIBUNAL
CUTTACK BENCH
CUTTACK

IA (IB) No. 253/CB/2023

-In-

CP. (IB) No. 30/CB/2022

An application filed under Section 60(5) of the Insolvency and Bankruptcy Code, 2016, r/w. Rule 11 of the NCLT Rules, 2016;

-And-

In the Matter of:

MAA Durga Commotrade Private Limited, Flat No-302, Neelakanthapartment, College Square, Malgodown, Cuttack, Odisha-750 003;

...Applicant

-Versus-

JM Financial Asset Reconstruction Company Limited, 8th Floor, Kankaria Estate, 6, Little Russel Street, Kolkata – 700 071;

...Respondent

-In-

JM Financial Asset Reconstruction Company Limited, 8th Floor, Kankaria Estate, 6, Little Russel Street, Kolkata – 700 071;

...Financial Creditor

-Versus-

MAA Durga Commotrade Private Limited, Flat No-302, Neelakanthapartment, College Square, Malgodown, Cuttack, Odisha-750 003.

...Corporate Debtor

Appearances:

For the Applicant (s)

Mr. S. K. Acharya, Adv.

Mr. S. Pholgu, Adv.

Mr. S. Agarwal, Adv.

For the Respondent (s)

Mr. S.S. Mohanty, Adv.

Mr. Swayamjit Rout, Adv.

Mr. S. S. Pradhan, Adv.

Ms. J. Mohanty, Adv.

Ms. G. Nayak, Adv.

Order reserved on: 21.08.2023

Order pronounced on: 25.09.2023

Coram:

Shri P. Mohan Raj : Member (Judicial)
Shri Kaushalendra Kumar Singh : Member (Technical)

ORDER

Per P. Mohan Raj, Member (Judicial)

1. This is an application filed under Rule 11 of NCLT Rules 2016 to recall the order dated 07.08.2023 passed in C.P.No.30/CB/2022 reserving the matter for orders and receive the additional objection/pleadings.

2. The main C.P.No.30/CB/2022 is filed under section 7 of IBC 2016 for an initiation of CIRP against the applicant herein/corporate debtor. After hearing both sides the petition was reserved for final orders on 07.08.2023. The applicant filed this interlocutory application on 16.08.2023 to reopen the case, receive additional pleading/objections and rehear the matter. The only point to be decided here is whether a party could move an application after the final arguments in the case were heard and the case was reserved for orders. The position of law in this regard clearly laid down by the Apex court in **Arjun Singh vs Mohindra Kumar & Ors on 13 December, 1963- 1964 AIR 993, 1964 SCR (5) 946:**

In the present context when once the hearing starts, the Code contemplates only two stages in the trial of the suit: (1) where the hearing is adjourned or (2) where the hearing is completed. Where the hearing is completed, the parties have no further rights or privileges in the matter and it is only for the convenience of the Court that O.XX R.1 permits, judgment to be delivered after an interval after the hearing is completed. It would, therefore, follow that after the stage contemplated by O. IX, R.7 is passed the next stage is only the passing of a decree which on the terms of O.IX R.6 the Court is competent to pass. And then follows the remedy of the party to have that decree set aside by application under O.IX R.13. There is thus no hiatus between the two stages of reservation of judgment and pronouncing the judgment so as to make it necessary



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for the Court to afford to the party the remedy of getting orders passed on the lines of O.IX R. 7.

In the supra citation it is made clear that there is no hiatus between the date on which the matter is reserved for orders and the date of pronouncement of orders.

3. The supra position of law is reiterated by the Rajasthan High Court in **Rajasthan Financial Corporation vs Pukhraj Jain and Ors. on 24 October, 2000 AIR 2001 Raj 71, 2001 (1) WLC 308, 2001 (1) WLN 529 as follows;**

“The question is not as to under which provision the application is made but the question is as to whether after the arguments are heard and the case is closed for judgment, any application under any provision could be moved till the judgment is pronounced. Supreme Court has clearly held that, there is no hiatus between the two stages of reservation of judgment and pronouncement of judgment. If there is no stage in between two and it is only for the convenience of the Court that pronouncement of the judgment may be deferred, it is clear that no application could be moved after the arguments were heard and the case was closed for judgment. Moreover, the distinction sought to be made on the basis of absence of the word 'stage' in Order 9, Rule 7, CPC is also not real. Since the Supreme Court has categorically decided that there is no hiatus between the two stages of reservation of judgment and pronouncement of judgment it cannot be said that there can be any stage in between the closure of the case for judgment and the pronouncement of the judgment itself.

Further in a similar situation the NCLT-Delhi Bench in SSP Private Limited vs Govindjee Dairy Milk Private Limited I.A.No.6290/ND/2022 in IB/532/2022 dated 28.03.2023 held in para 5 as follows:

It is a settled law that once the judgement has been reserved in matter, any subsequent pleadings in the matter, based on facts which were in existence earlier also at the time of filing the reply as well at the time of arguments, cannot be



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entertained by this Adjudicating Authority and therefore in no way can be considered by this Adjudicating Authority in pronouncing the judgement already reserved in the captioned Company Application.

5. In view of this clear position of settled law, no further discussions in fact necessary. There is no scope to entertain any application from the parties after the matter is reserved for orders. In these circumstances, this application is **DISMISSED**.

6. Registry is directed to send e-mail copies of the order forthwith to all the party's concern.

7. Certified copy of this order may be issued, if applied for, upon compliance of all requisite formalities.

8. File be consigned to records.

Sd

Kaushalendra Kumar Singh
Member (Technical)

PANDIAN
MOHAN RAJ

Digitally signed by PANDIAN
MOHAN RAJ
Date: 2023.09.25 14:16:25 +05'30'

P. Mohan Raj
Member (Judicial)

Signed on this, the 25th day of September, 2023.

Kaushal_P.S