

IN THE NATIONAL COMPANY LAW TRIBUNAL
JAIPUR BENCH

CORAM: SHRI DEEP CHANDRA JOSHI,
HON'BLE JUDICIAL MEMBER
SHRI RAJEEV MEHROTRA,
HON'BLE TECHNICAL MEMBER

IA No. 567/JPR/2022
In CP No. (IB) 77/7/JPR/2021

UNDER SECTION 7 OF IBC, 2016

IN THE MATTER OF:

Rimura Finlease and Technology Limited
...Financial Creditor/Applicant

VERSUS

Jawan Construction Private Limited
...Corporate Debtor/Respondent

AND IN THE MATTER OF:

IA No. 567/JPR/2022

MEMO OF PARTIES

Jawan Construction Private Limited,
Through its Resolution Professional,
Prashant Agrawal, Having Office at F-106,
Sumer Complex, Gautam Marg,
B/h Bagadia Bhawan, Jaipur.

... Applicant/ IRP

VERSUS

- 1. Mr. Shyam Singh Katewa,**
Suspended Director of Jawan Construction Pvt. Ltd.
R/o Flat No. 703, Elegants Heights,
Plot No. 335 to 337,

IA No. 567/JPR/2022
In CP No. (IB) 77/7/JPR/2021







Officer Campus Extension,
Khatipura, Sirsi Road, Jaipur-302012

... Non-Applicant/Respondent No. 1

2. Mr. Yash Katewa

Suspended Director of Jawan Construction Pvt. Ltd.
R/o Katewa Sadan, Opp. Punch Devi Mandir,
Road No. 3, Jhunjhunu, Rajasthan-333031.

... Non-Applicant/Respondent No. 2

3. Mrs. Sunita Katewa

Suspended Director of Jawan Construction Pvt. Ltd.
R/o Flat No. 703, Elegants Heights, Plot No. 335 to 337,
Officer Campus Extension, Khatipura, Siri Road,
Jaipur-302012.

... Non-Applicant/Respondent No. 3

4. Mr. Durgesh Kumar Jha

Suspended Director of Jawan Construction Pvt. Ltd.
R/o Gram Rajpur, Post Rajpur, Thana-Amarpur,
Banka, Bihar-813102.

... Non-Applicant/Respondent No. 4

5. Mr. Kanaram Jat

Suspended Director of Jawan Construction Pvt. Ltd.
R/o Hatupura, Sakhoon, Jaipur, Rajasthan-302004

... Non-Applicant/Respondent No. 5

6. M/s N. Bhandari & Co.,

Chartered Accounts (Statutory Auditor of the Corporate Debtor)
Office situated at 35, Keshav Nagar, Hawa Sadak,
Jaipur-302019.

... Non-Applicant/Respondent No. 6

For the Applicant : Prashant Agarwal, RP

For the Respondent : Shashank Kasliwal, Adv.

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Order Pronounced On: 22.11.2023




ORDER

Per: Shri Deep Chandra Joshi, Judicial Member

1. This Interim Application ('IA') has been filed by the Resolution Professional ('RP') of M/s Jawan Construction Pvt. Ltd. ('Corporate Debtor') under Section 19 of Insolvency and Bankruptcy Code, 2016 (the 'Code'/ 'IBC'). The Adjudicating Authority *vide* Order dated 16.09.2022 ('CIRP Order') admitted the application under Section 7 of the IBC, filed by the Financial Creditor against the Corporate Debtor in the above-mentioned matter and Mr. Prashant Agrawal was appointed as the Interim Resolution Professional ('IRP/Applicant').
2. Subsequently, after the appointment of the IRP, he sent an E-mail dated 20.09.2022 intimating the *suspended* directors of the Corporate Debtor about the commencement of the CIRP of the Corporate Debtor and sought co-operation from the Suspended Board of Directors/Respondents. The Applicant had sought for certain documents and information from the Respondents *vide* various E-mails dated 20.09.2022, 26.09.2022, 29.09.2022, 06.10.2022, 12.10.2022 and 28.01.2022. Copy of the said E-mail communications are annexed as Annexure-1 of the Application.
3. Thereafter the Applicant also sent an E-mail dated 20.09.2022 to the Statutory Auditor for extending the cooperation in CIRP of the Corporate

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Debtor. Further the Applicant made the public announcement in two (2) leading newspaper dated 21.09.2022 for the purpose of inviting claims of the creditors and stakeholders.

4. Pursuant to the public announcement the Applicant had visited the registered office of the Corporate Debtor however nobody was available to provide any information in respect of the Corporate Debtor. Thereafter the Respondents responded to the E-mails reminder vide E-mail dated 30.09.2022 and provided bank statements. Copy of the said E-mail dated 30.09.2022 is annexed as Annexure-3 of the Application.
5. Further the Respondent No.1 states that the books of accounts of the Corporate Debtor were maintained in tally software and the same is hacked therefore an FIR had been lodged.
6. The Applicant further states that the Respondents had deliberately failed to provide any information such as books of account and tally data. The Applicant sent another mail reminder to the Statutory Auditor on 29.10.2022 and 30.10.2022 for seeking aforementioned data however they were failed to provide all required documents.
7. In the present application, it is stated that the direction passed in the CP No. 77/7/JPR/2021 could not be complied with as the personnel of the corporate debtor are not extending their assistance and cooperation to the RP and prayed that directions enumerated in the application may be given to the respondents including the following: -



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- I. *Direct the Respondents to furnish all the documents/information related to Corporate Debtor to Interim Resolution Professional*
 - II. *Direct the Respondents to furnish the information/clarification/information as sought by the IRP vide his email dated 20.09.2022, 26.09.2022, 29.09.2022, 30.09.2022, 06.10.2022 and 29.10.2022 at the earliest.*
 - III. *Direct the Respondents to co-operate with Interim Resolution Professional for carrying out statutory duties casted upon Applicant and furnish relevant documents/information clarification to sought by IRP/RP, as the case maybe, from time to time.*
 - IV. *Pass any other order which this Hon'ble Tribunal may deem fit and proper in facts and circumstances of case may be granted.*
8. Respondents, who are *suspended* directors of the Corporate Debtor in their reply denied the averments made in the IA, stating that the RP has suppressed material facts from the Adjudicating Authority. Thus, the present application filed under Section 19 of the IBC is not maintainable as:
- a. The Suspended Board of directors stated that they have met physically with the Applicant and provided clarity regarding books of account and never shied away from extending any cooperation to the Applicant.
 - b. Further it is submitted that all the books of accounts are submitted and at same time all accounts are available on the web portal of ROC. The residential house of the suspended directors and the registered office of the Corporate Debtor are not situated in the same

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premise. The facts can be confirmed by the bare perusal of the portal of Ministry of the Corporate Affairs.

c. Respondents are willing to extend their support to the Resolution Professional and are willing to provide all types of help to the Resolution Professional in furtherance of the CIRP process.

9. Section 19(1) of the IBC provides that the personnel of the Corporate Debtor, its promoters or any other person associated with the management of the Corporate Debtor shall extend all assistance and cooperation to the Resolution Professional as may be required by him in managing the affairs of the Corporate Debtor.
10. The Adjudicating Authority on receiving an application under Sub-section (2), shall by an order, direct such personnel or other persons to comply with the instructions of the Resolution Professional and to cooperate with him in the collection of information and management of the Corporate Debtor.
11. Considering arguments advanced, submissions put forth and documents placed on the record, application of the Resolution Professional is allowed and Respondents are directed to extend their full cooperation and support to Resolution Professional and provide all the documents and records as required for successful resolution of the Corporate Debtor.
12. The RP shall be at liberty to approach this Adjudicating Authority in case of any breach of the direction given by this Adjudicating Authority. The non-compliance with the aforesaid direction would attract strict penalties



and *Suspended* Management shall remain present in person either physically or through virtual mode to explain their non-compliances with the aforesaid directions.

Accordingly, IA No. 567/JPR/2022 stands disposed of.

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**DEEP CHANDRA JOSHI,
JUDICIAL MEMBER**

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**RAJEEV MEHROTRA,
TECHNICAL MEMBER**