

IN THE NATIONAL COMPANY LAW TRIBUNAL
MUMBAI BENCH, MUMBAI

CP(IB) 26(MB)/2019
MA 2343/2018

CORAM:

SHRI V. P. SINGH
MEMBER (J)
SHRI RAJESH SHARMA
MEMBER (T)

ORDER SHEET OF THE HEARING OF MUMBAI BENCH OF THE NATIONAL COMPANY LAW TRIBUNAL ON 1.8.2019

NAME OF THE PARTIES: Anchor Leasing Pvt Ltd

V/s

Satra Property Developers Pvt Ltd

Section 7 of the Insolvency and Bankruptcy Code, 2016.

ORDER

10. MA 2343/2018 in CP(IB) 26(MB)/2019

MA 2343/2018 in CP 26/2019 has been filed by the applicant, seeking permission to intervene in CP 26/2019. The applicant has further requested to provide an opportunity to the applicant/intervenor to present its case, and to be heard before any order is passed in Company Petition.

It is further stated that this CP should be tagged with CP No.1931/2019, which is filed by the intervener.

The applicant contends that the Corporate Debtor has been scrupulously attempting to evade its due liabilities while relying upon an alleged larger settlement between the Shah Group, IIFL and the Satra Group, which the Corporate Debtor purports, has been concluded in the meeting dated 31.1.2019. Pertinently, Mr Mayank Shah along with his wife Mrs Shruti Mayank Shah has also filed a separate Company Petition No.1632 of 2019 in the capacity of Financial Creditors against the parent company of the Corporate Debtor viz.

Satra Properties (India) Ltd for recovery of amounts aggregating to Rs.43.30 crores (excluding interest). Remarkably, Satra Properties (India) Ltd have been harping upon similar contentions in the reply filed therein. The applicant further contends that it is the applicant/intervenor's case that no such settlement has been agreed upon nor any contracts have been entered by and between the applicant/intervenor and the Corporate Debtor or the Petitioner herein, and the loan amounts are still due and outstanding.

The applicant further states that it is a proper and necessary party and required to be allowed to intervene in the present proceedings and entitled to be heard before any order is passed by this Tribunal, permitting the Corporate Debtor to settle its claims, which if it is not permitted shall lead to travesty of justice and violation of rights of the applicant/intervenor.

In reply to the above MA, it is stated by the Respondent herein that the Intervention application as framed and filed is untenable and not maintainable, and on this count alone, the MA is liable to be dismissed with cost.

It is further stated that the present CP 26/2019 and the Company Petition NO.1931/2019 filed by the applicant could be heard together. However, the CP 26/2019 has already been heard on 28.5.2019, and it was reserved for the order. After that, the petitioner had filed MA 2095/2019 for deferment of passing the final order for three weeks, and on 12.6.2019, this Bench disposed of such MA 2095/2019 with a direction that consent terms may be filed within 15 days from 12.6.2019. The matter was after that, adjourned to 28.6.2019 for filing consent terms.

It is stated by the Respondent that the Company Petition is Reserved for Orders//for filing consent terms. However, since the consent terms were not filed, the CP is reserved for orders. The Respondent has further contended that the applicant is an intervener, at this stage or even otherwise, has no locus to intervene in the matter.

Heard the argument of the parties and perused the record.

It is pertinent to mention that CP 26/2019 has been filed by the Petitioner Anchor Leasing Pvt Ltd against the Corporate Debtor Satra Property Developers Pvt Ltd. and in that case argument has been heard, and it is reserved for orders.

The applicant of MA 2343/2019 has separately filed CP No.1931/2019 under Section 7 of IBC, 2016 which is listed for hearing on 21.8.2019. The applicant has no concern with the proceeding filed by Anchor Leasing Pvt Ltd against the Corporate Debtor Satra Property Developers Pvt Ltd.

It is pertinent to mention that before admission of the petitioner, the Petitioner has got every right to withdraw the petition. Any 3rd party has no right to intervene in withdrawing/filing the consent terms.

Given the circumstances, we at this moment reject MA 2343/2019.

MA is disposed of accordingly.

Sd/-
RAJESH SHARMA
Member (Technical)

Sd/-
V. P. SINGH
Member (Judicial)