

IN THE NATIONAL COMPANY LAW TRIBUNAL: NEW DELHI
PRINCIPAL BENCH

Item No. 151
(IB)-939(PB)/2018

IN THE MATTER OF:

Oreintal Bank of Commerce

.... Applicant/petitioner

Vs.

M/s. Sikka Papers Ltd. & Ors.

.... Respondent

SECTION:

Under Section 7 of IBC, 2016

Order delivered on 15.01.2020

Coram:

SHRI B.S.V. PRAKASH KUMAR
HON'BLE ACTG. PRESIDENT

SH. S. K. MOHAPATRA
HON'BLE MEMBER (TECHNICAL)

PRESENT:

For the RP : Ms. Jyotsna Chaturvedi, P.C.S with Ms.
Karishma Jaiswal, Mr. Rajesh, P.C.S.
For the Respondent : Ms. Sanchi Garg, Adv. On behalf of Respondent.

ORDER

CA-2437(PB)/2019:-

It is an application filed by the RP seeking directions against the ex.-director/respondent no. 1 namely Mr. Vikas Bansal to provide requisite information /records and documents and their assistance, co-operation to the RP enabling him to discharge his duties and obligations smoothly in terms of the CoC.

2. The applicant submits that the respondent no. 1 representing, the promoter/directors of the company has been appeared in all meetings of the CoC but has not been providing property documents, the financial statements and



also third director's name till date. Despite no assistance has come from this respondent, the RP has put all his efforts to get maximum information so as to ensure that proper resolution plan is placed before the CoC but since property documents are not in place and financial statements not being there, the RP is unable to prepare valuation reports to assist the value of the company, unless value of the company is placed before the CoC, the CoC also cannot take any decision over the resolution plans scheduled to come before the CoC.

3. On the application filed this RP-applicant, first respondent has filed response stating that since third director is not there, the balance sheets could not be signed, therefore, he is unable to provide financial statements with the RP. As to property documents he says that since the factory is not under his control, he could not provide documents. In that case, at least he should have mentioned to whom documents are given by this respondent, and the person in whose possession documents say that documents be remain are not in his possession, at least, he has to reveal the information with whom those documents lying. That information is missing in the affidavit filed by him. In



view of the same, we are of the view that the first respondent is liable to produce all those documents and financial statements to the RP because the directions of the company are bound to keep the books and documents of the company in their custody as and when company petition was admitted against such corporate debtor, the directors of such corporate debtor are bound to produce documents to the RP appointed in the case admitted.

4. Here, in this case that compliance has not been done, this respondent having not produced documents despite this application under Section 19(2) has been filed before this Bench, we are of the view that the assistance is required to get this documents and assistance from the Government agency to obtain these documents from the promoter/directors of the company.

5. In view of the same, we hereby suggest that since the registered office is shown as S-136, Ground Floor, Greater Kailash-1, New Delhi-110041 since this premises falling within the ambit of Police Station, Greater Kailash-1, the said commissioner may provide assistance to the RP in extracting the records from these people. This direction is given by exercising jurisdiction given in Section 429 of the



Companies Act, 2013. Accordingly, this application is allowed with liberty to the RP to approach this bench in the event any difficulty is arisen in getting information/records from the promoters/directors.

CA-2424(PB)/2019:-

It is an application filed by the RP seeking directions against the RoC as follows:-

- a. the present application of the applicant be allowed;
- b. direct respondent no. 1 for the appointment of the Third Director so that necessary compliance relating to the provisions of Section 149 of the Companies Act, 2013 can be done;
- c. or in the alternative direct respondent no. 2 to accept the form filed by the applicant 2013 on behalf of the corporate debtor without complying with the provisions of Section 149 and 203 of the Companies Act, and not to impose any charges of penalty on the Corporate Debtor and the suspended board.
- d. any other or further relief which this Hon'ble Tribunal deems fit and proper in the circumstances of the case.

2. On perusal of this application filed against the RoC to include third director in the company for it being a public



limited company, once directors are suspended after admission of the company petition, the question of appointment of director will not arise, therefore, this application is hereby dismissed as misconceived.

—sd—

(B.S.V PRAKASH KUMAR)
ACTG. PRESIDENT

—sd—

(S. K. MOHAPATRA)
MEMBER (TECHNICAL)

15.01.2020
Aarti Makker