

Company Appeal (AT) Insolvency No. 745 of 2023

...Appellant

...Respondent

For Appellant : Mr. Gopal Jain, Sr. Advocate with Mrs. Pooja M. Saigal,
Mr. Simrat Singh P. Advocates

For Respondents : Mr. Ramji Srinivasan, Sr. Advocate with Mr.
DeepRoay, Ms. Shruti Pandey, Ms. Namrata Saraogi,
Advocates for R-1 and R-3
Mr. Arun Kathpalia, Mr. Krishnendu Datta, Sr.
Advocates with Mr. Abhijeet Sinha, Mr. Abhirup
Dasgupa, Ms. Jayashree Shukla Dasgupta, Mr. Ishaan
Duggal, Ms. Mukta Halbe Advocates for R-2

01.06.2023 Heard Learned Counsel for the parties.

2. This Appeal has been filed against the Order dated 01st May, 2023 passed by the Adjudicating Authority on an Application preferred by Monitoring Committee. The Appellant is one of the member of the consortium of the Successful Resolution Applicant. He aggrieved by the said order, has come up in this Appeal.

3. The prayers which were made by the Monitoring Committee in the Application have been extracted in Paragraph 2 of the Order. The Adjudicating Authority after noticing, in paragraph 10, that Affidavit was filed by the SRA stating that a Monitoring Committee meeting held on 22nd March, 2023 and 25th April, 2023 and after much deliberation in order to get smooth

implementation of the approved Resolution Plan, decision has been taken therein.

4. Mr. Gopal Jain, Learned Sr. Counsel for the Appellant submits that in paragraph 11, the Adjudicating Authority has observed that Learned Sr. Counsel would agree in unison that Application be disposed of since the balance payment has been made by Successful Resolution Applicant. It is submitted that no consent was given by the Appellant and the said observation can not be read as consent by all. He submits that Appellant has already filed an I.A. before the Adjudicating Authority with regard to the paragraph 11 of the Order. He further submits that in paragraph 12 of the Order, the Adjudicating Authority has disposed of the Application with directions upon the parties to act in accordance with the Resolution Plan which direction are not clear and are likely to be misinterpreted. He submits that this court may clarify and issue clarification with regard to order passed. He submits that said directions are not clear and which may be read as modification of the Resolution Plan with regard to effective date.

5. Submission made by Learned Sr. Counsel for the Appellant has been refuted by Learned Sr. Counsel appearing for Monitoring Committee as well as Lead Members of the Consortium of SRA. It is submitted that SRA has made entire payment of Rs. 35 Crores earlier and Rs. 9 Crores, it is further submitted that balance amount shall be paid within three months by the SRA as per Resolution Plan and as per the agreed schedule between the parties.

6. Coming to the submission of Appellant that recording in paragraph 11 that all counsels would agree in unison is not correct recording, it is noticed that Appellant has already filed an I.A. We are of the view that in this Appeal

the said issue can not be gone into and it is open for the Appellant to press his application which he has filed.

7. Coming to the paragraph 12 of the Order, the submission of the Appellant that order is likely to be misread does not appeal to us. Ultimate direction issued by the Adjudicating Authority is that the Application is disposed of with directions upon the parties to act in accordance with the Resolution Plan. When directions upon the parties to act in accordance with Resolution Plan, there is no question of misinterpretation of the order, the submission of the Appellant is misplaced.

8. We thus are of the view that there is no ground is made to entertain this Appeal. With these observations, we dismiss the Appeal.

[Justice Ashok Bhushan]
Chairperson

[Naresh Salecha]
Member (Technical)

Basant B/nn