THE NATIONAL COMPANY LAW TRIBUNAL
CHANDIGARH BENCH, CHANDIGARH
(Exercising powers of Adjudicating Authority under the Insolvency and Bankruptcy Code, 2016)
(through web-based video conferencing platform)

IA No.152/2021
in
CP (IB) No.136/Chd/Pb/2017
(admitted)

<u>In the matter of:</u>

UCO Bank ….Petitioner-Financial Creditor
Versus
Oswal Spinning and Weaving Mills Ltd. ….Respondent-Corporate Debtor

And in the matter of:-
<u>IA No.152/2021</u> **Under Section 60(5) of the IBC, 2016**
Hemanshu Jetley (Liquidator) of
Oswal Spinning and Weaving Mills Ltd. …Applicant
Vs.
1. Mr. Palwinder Singh Dhillon, Naib Tehsildar,
   Sub-Tehsil Sahnewal,
   Kohara Road, Sahnewal
   Ludhiana 141120
2. Mr. Mohit Singla, Patwari
   Khakat Patwar Khana
   Govt. High School, Village Pawa Khakat
   Jugiana, Ludhiana 141120 …Respondents

Order delivered on: 07.07.2022

Coram: HON'BLE MR. HARNAM SINGH THAKUR, MEMBER (JUDICIAL)
HON'BLE MR. SUBRATA KUMAR DASH, MEMBER (TECHNICAL)

<u>Present through video-conferencing:</u>

For the Applicant/Liquidator : Mr. G.S. Sarin, Practising Company Secretary

For the Respondent No.1 & 2 : Set ex-parte by order dated 12.01.2022

Per: Subrata Kumar Dash, Member (Technical)

ORDER

IA No.152/2021

This is an application filed under Section 60(5) of the IBC, 2016. In the present application, Hemanshu Jetley (Liquidator) of Oswal Spinning and Weaving Mills Ltd. is the applicant, and Mr. Palwinder Singh Dhillon, Naib Tehsildar **(Respondent No.1)** and Mr. Mohit Singla, Patwari **(Respondent No.2)**, are the respondents.

2. In the present application, the applicant prays to issue necessary directions to Respondent No.1 and Respondent No.2 for updation of the revenue records and for carrying out the demarcation of the subject property of the corporate debtor located at Village Jugiana, Ludhiana.

3. The brief facts as outlined in the application are that the liquidation proceedings were initiated against the corporate debtor on 13.12.2019. The corporate debtor owns a property-land at village Jugiana which was mortgaged with Kotak Mahindra Bank. The mortgagee bank (Kotak Mahindra Bank) has issued a letter dated 19.03.2012 wherein the bank has agreed to vacate the lien on 67222.11 sq.yards and has retained the lien on 18384.89 sq. yards. According to the lien, the area of the subject land must be 18384.89 sq. yards. However, as per the valuation reports of the valuer, the total area of the subject land was found to be 3300 sq. yards and was unable to locate the exact Khasra number of the land. The valuation was conducted by another valuer wherein the land was found to be approximately 2700 sq.44

metres. Thereafter, Liquidator has been appointed Mr. Ajay Bhagwati,Advocate to undertake the title search in order to ascertain the exact size of subject land. As per the report dated 16.01.2021 (Annexure-8 of the application), the exact land holdings cannot be ascertained as no revenue map of the village was available. Afterwards, the Liquidator has sent a letter dated 02.07.2020 and 23.09.2020 to respondent No.1 along with copy to respondent No.2 to carry out a demarcation of the land of the corporate debtor but no response was received by the applicant. Copy of postal receipts of letters along with tracking report sent to respondent No.1 and 2 are attached as Annexure-6 and 7 of the application. It is also stated that demarcation of the land is important so as to ascertain the exact holdings of the corporate debtor, the Liquidator is unable to sell and release the subject land due to uncertainty as to the size of landholding.

4. Notices were issued to the respondent No.1 and 2 by order dated 23.04.2021 and the applicant has filed an affidavit of service by Diary No.00395/01 dated 07.04.2021 and Diary No.00395/02 dated 14.12.2021. It has been shown in the affidavit of service that the copy of the application through speed post as well as by email has been duly delivered to the respondent No.1 and 2. The applicant has again filed a compliance affidavit by Diary No.00395/4 dated 15.03.2022 wherein it has been stated that next date of hearing is duly sent to the respondent No.1 and 2 through e-mail. But none appeared on behalf of respondents, therefore, were proceeded ex parte by order dated 12.01.2022.

5. Subsequently, the Applicant has filed a written submission by Diary No.00395/5 dated 27.04.2022, reiterating the facts as stated in the application.

6. We have gone through the arguments along with their submissions filed by all the parties and have perused the records carefully.

7. In connection with the above, a reference is made to the following proceedings of relevant provisions of the IBC:

"***Section 35: Powers and duties of liquidator.***

35. *(1) Subject to the directions of the Adjudicating Authority, the liquidator shall have the following powers and duties, namely:—*

(b) to take into his custody or control all the assets, property, effects and actionable claims of the corporate debtor;

(c) to evaluate the assets and property of the corporate debtor in the manner as may be specified by the Board and prepare a report;

(d) to take such measures to protect and preserve the assets and properties of the corporate debtor as he considers necessary;

(m) to take all such actions, steps, or to sign, execute and verify any paper, deed, receipt document, application, petition, affidavit, bond or instrument and for such purpose to use the common seal, if any, as may be necessary for liquidation, distribution of assets and in discharge of his duties and obligations and functions as liquidator;

(n) to apply to the Adjudicating Authority for such orders or directions as may be necessary for the liquidation of the corporate debtor and to report the progress of the liquidation process in a manner as may be specified by the Board;

36. Liquidation estate:-

(1) For the purposes of liquidation, the liquidator shall form an estate of the assets mentioned in sub-section (3), which will be called the liquidation estate in relation to the corporate debtor.

(3) Subject to sub-section (4), the liquidation estate shall comprise all liquidation estate assets which shall include the following:—

(a) any assets over which the corporate debtor has ownership rights, including all rights and interests therein as evidenced in the balance sheet of the corporate debtor or an information

utility or records in the registry or any depository recording securities of the corporate debtor or by any other means as may be specified by the Board, including shares held in any subsidiary of the corporate debtor;
(b) assets that may or may not be in possession of the corporate debtor including but not limited to encumbered assets;
(c) tangible assets, whether movable or immovable;
(d) intangible assets including but not limited to intellectual property, securities (including shares held in a subsidiary of the corporate debtor) and financial instruments, insurance policies, contractual rights;
(e) assets subject to the determination of ownership by the court or authority;
(f) any assets or their value recovered through proceedings for avoidance of transactions in accordance with this Chapter;
(g) any asset of the corporate debtor in respect of which a secured creditor has relinquished security interest;
(h) any other property belonging to or vested in the corporate debtor at the insolvency commencement date; and
(i) all proceeds of liquidation as and when they are realised."

8. The records indicate that the Liquidator has already approached the local Revenue Authority (respondents being- Naib Tehsildar and Patwari) but the latter has not responded to his request. We have also noted the contents of the letters sent to the respondents and annexed to the application as Annexure-6 and 7. Considering the fact that the plot which was identified through the physical inspection of the plot is much smaller than the size of the land as reflected in the records of the corporate debtor, it is essential to ascertain the exact holding over which the corporate debtor has ownership rights for the purposes of subsequent sale of the liquidation assets. As laid down under section 35 & 36, extracted in para-7 above, it is the duty of the liquidator to take all such measures to protect and preserve the assets of the corporate debtor. For this purpose, a proper demarcation of the properties and updation of revenue records are required. In view of the facts and

circumstances of the case, the respondents have therefore, directed to update the revenue records and carry out the demarcation of the subject property of the corporate debtor located at Village Jugiana, Ludhiana in accordance with law.

9. A copy of this order be also served on the Deputy Commissioner Ludhiana, 98 Ferozpur Road, Jila Kacheri Area, New Model Town, Ludhiana, 141001 and Sub Divisional Magistrate, Ludhiana East, DC office,98 Ferozpur Road, Jila Kacheri Area, New Model Town, Ludhiana ,141001 for necessary compliance.

10. Consequently, IA No.152/2021 is allowed and stands disposed of, accordingly.

Sd/-	Sd/-
(Subrata Kumar Dash)	(Harnam Singh Thakur)
Member (Technical)	Member (Judicial)

July 07, 2022

AV/ASH