

IN THE NATIONAL COMPANY LAW TRIBUNAL
CUTTACK BENCH
CUTTACK

IA No.212/CTB/2020
in
CP(IB) No.01/CTB/2019

In the matter of:

Application under Section 60(5) of the Insolvency and Bankruptcy Code, 2016
And

In the matter of:

Nandakini Contractors Private Limited ... Financial Creditor
Versus
Hirakud Industrial Works Limited ... Corporate Debtor
And

In the matter of:

H.I.W. Workers' Union ... Applicant
Versus

1. Nandakini Contractors Private Limited
2. Hirakud Industrial Works Limited
3. Mr. Ananda Rao Korada ... Respondents

Order reserved on: __.__.2021
Order pronounced on: 22.12.2021

Coram:

Shri Rajasekhar V.K. : Member (Judicial)
Shri Satya Ranjan Prasad : Member (Technical)

Appearances (through video conferencing):

For the Applicants : Mr. Debashish Mohapatra, Advocate
For the Respondent No. 1 : Mr. Shaunak Mitra, Advocate
For the Respondent No. 2 & 3 : Mr. Krishnaraj Thaker, Advocate
: Mr. Patit Paban Bishwal, Advocate
: Mr. Chayan Gupta, Advocate
: Mr. Ananda Rao Korada, RP

ORDER

Per: Rajasekhar V.K., Member (Judicial)

1. This court convened *via* video conferencing.

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2. The present Interlocutory Application has been filed by the H.I.W. Workers' Union (applicants) under Section 60(5) of the Insolvency and Bankruptcy Code, 2016 (IBC) against **Nandakini Contractors Private Limited** (the Financial Creditor); **Hirakund Industrial Works Limited** (the Corporate Debtor) and **Mr. Ananda Rao Korada** (Resolution Professional of the Corporate Debtor), seeking the direction of the Adjudicating Authority for maintenance of status quo with respect to the nature and character of the lands belonging to the Corporate Debtor.
3. In **CP(IB) No. 01/CTB/ 2019**, the Adjudicating Authority Vide order dated 28.02.2020 issued directions to the petitioner and the Resolution Professional and had posted the matter for further hearing on 20.03.2020.
4. The case of the applicants is that due to the onset of COVID 19 pandemic and the following countrywide lockdown, the hearing of 20.03.2020 could not be held and no further hearing has been possible in the matter. During such period, it came to the notice of the Applicant that certain unknown persons had entered the land belonging to the purported Corporate Debtor and had started engaging in development activity/ plotting apparently for construction of permanent structures.
5. On objections to such activity from the Applicants, the said persons stated that they had orders to undertake such activity and issued threats. The unknown persons did not reveal the name of the person who had engaged them. The Applicants lodged a complaint dated 27.07.2020 before the Government of Odisha authorities and brought to their notice the illegal development activity despite the moratorium under section 14 of the IBC. The applicants vide letter dated 21.08.2020 also requested the Resolution Professional of the Corporate Debtor to take appropriate actions to protect and preserve the land of the Corporate Debtor. However, neither the State Government, nor the Resolution Professional has taken any action to prevent such activity.

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6. No interim prayer has been made against the creation of any third-party interest or any construction activity on the land of the Corporate Debtor. Therefore, such illegal developmental activity will constitute to creation of encumbrance and third-party rights over the assets of the corporate debtor and will adversely affect the legitimate rights of the workers of the Applicant.
7. Therefore, the applicant is praying for directions to maintain status quo of the land of the Corporate Debtor with directions to not change the nature and character of the said land and that no third-party rights be created thereon till the final outcome of the present matter.
8. We have heard the learned Counsel appearing on behalf of the Applicants and the learned Counsel appearing on behalf of the Respondents and perused the pleadings filed by the parties.
9. In the view of the separate orders passed today in IA No.1/CTB/2020, IA No. 42/CTB/2020 and IA No.197/CTB/2019, the present application seeking that *status quo* be maintained till the disposal of the present proceedings, has become infructuous and is dismissed as such.
10. **IA No. 212/CTB/2020** is accordingly dismissed.
11. The Registry is directed to send e-mail copies of the order forthwith to all the parties and their Ld. Counsel for information and for taking necessary steps.
12. Certified Copy of this order may be issues, if applied for, upon compliance of all requisite formalities.

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Satya Ranjan Prasad
Member (Technical)

Suman M (LRA)

सत्य प्रति प्रमाणित होना
CERTIFIED TO BE TRUE COPY

Agreed
22/12/2021

उप दुलसचिव
Deputy Registrar
राष्ट्रीय कम्पनी विधि अधिकरण
National Company Law Tribunal
कटक बेंच
Cuttack Bench

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Rajasekhar V.K.
Member (Judicial)

22.12.2021