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NATIONAL COMPANY LAW TRIBUNAL  
DIVISION BENCH - I  
CHENNAI

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ATTENDANCE CUM ORDER SHEET OF THE HEARING OF CHENNAI BENCH, CHENNAI  
NATIONAL COMPANY LAW TRIBUNAL, HELD AT 10.30 AM ON

20.09.2018

PRESENT: SHRI Ch. MOHD SHARIEF TARIQ, MEMBER-JUDICIAL  
SHRI ANIL KUMAR B, MEMBER - TECHNICAL

APPLICATION NUMBER :  
PETITION NUMBER : CP/1352/IB/2018  
NAME OF THE APPLICANT : KOTAK MAHINDRA BANK LTD  
NAME OF THE RESPONDENT : PRASAD PROPERTIES & INVESTMENTS PVT LTD  
UNDER SECTION : 7 RULE 4 OF IBC

S.No.	NAME (IN CAPITAL)	DESIGNATION	SIGNATURE
		REPRESENTATION BY WHOM	

1.	R. IMAYAVARASAN (98410466404) For Remedyingam Associates	For Kotak Mahindra Bank Financial creditor	R. Imayavarasan
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2.	N.V. PRAKASH 9962300540	COUNSEL FOR RESPONDENT	N.V. Prakash
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**IN THE NATIONAL COMPANY LAW TRIBUNAL,  
DIVISION BENCH, CHENNAI**

**CP/1352/IB/2018** filed under  
Section 7 of the Insolvency and  
Bankruptcy Code, 2016 r/w Rule 4  
of the Insolvency and Bankruptcy  
(Application to Adjudicating  
Authority) Rules, 2016

In the matter of *M/s. Prasad Properties and Investments Pvt. Ltd.*

**KOTAK MAHINDRA BANK LTD.**

... *Financial Creditor*

-Vs-

**M/s. PRASAD PROPERTIES AND INVESTMENTS PVT. LTD.**

... *Corporate Debtor*

*Order delivered on 20<sup>th</sup> September, 2019*

CORAM :

**CH. MOHD SHARIEF TARIQ, MEMBER (JUDICIAL)  
ANIL KUMAR B, MEMBER (TECHNICAL)**

*For Financial Creditor : Mr. R. Imayavaramban, Counsel  
For Corporate Debtor : Mr. N. V. Prakash, Counsel*

**ORDER**

**Per: CH. MOHD SHARIEF TARIQ, MEMBER (JUDICIAL)**

1. Under adjudication is CP/1352/IB/2018 that has been filed by **Kotak Mahindra Bank Ltd.** (hereinafter referred to as **Financial Creditor**) under Section 7 of the Insolvency and Bankruptcy Code, 2016 r/w Rule 4

of the Insolvency and Bankruptcy (Application to Adjudicating Authority) Rules, 2016 against ***M/s. Prasad Properties and Investments Private Limited*** (hereinafter referred to as 'Corporate Debtor').


The prayer made is to admit the Application, to initiate the Corporate Insolvency Resolution Process against the Corporate Debtor, declare moratorium and appoint Interim Resolution Professional (IRP).

2. Heard the Counsels for the Financial Creditor, the Corporate Debtor and perused the pleading including the documents placed on file.

3. The Financial Creditor has claimed an amount of Rs.835,93,52,369/-- (Rupees Eight Hundred and Thirty Five Crores Ninety Three Lakhs Fifty Two Thousand Three Hundred and Sixty Nine Only) as outstanding against the Corporate Debtor as per the Debt Recovery Certificates (DRC) issued by the DRT-1, Chennai vide DRC Nos. 145/2017, 251/2017 and 139/2017.

4. It has been submitted by the Counsel for the Financial Creditor that originally Ind Bank Housing Limited has sanctioned various credit facilities to M/s. Gemini Arts Private Limited, M/s. Green Gardens Private Limited and M/s. Mahalakshmi Properties and Investments Private Limited to which the Corporate Debtor stood as mortgagor and mortgaged its immovable property viz., land admeasuring 5 Acres situated in Survey No. 11, Guttala Begampet Village Serilingam Pally Mandal and Municipality, Ranga Reddy District, Andhra Pradesh by deposit of title deeds as security for due repayment of the facilities availed by the borrowers.

5. The Counsel for the Financial Creditor has submitted that after availing the said facilities, the borrowers have failed to repay the dues, and subsequently Ind Bank Housing Limited had filed CS No. 33/1999, CS No.1023/1998 and CS No. 52/1999 before Hon'ble High Court of Madras for recovery of amounts.



6. During pendency of CS No. 33/1999, CS No.1023/1998 and CS No. 52/1999, the Financial Creditor viz. Kotak Mahindra Bank Limited and Ind Bank Housing Limited entered into a Deed of Assignment dated 13.10.2006, copy of which is placed at pages 16 to 22 of the typed set filed with the Application, wherein the Ind Bank Housing Limited has unconditionally and absolutely assigned all its rights, title, interest, estate, claim and demand to the debts to the Financial Creditor viz. Kotak Mahindra Bank.

7. Based on the compromise dated 07.08.2006 entered into between the Borrowers and the Assignor, the Hon'ble High Court of Madras has passed the Consent/Compromise Decree on 26.03.2007 in CS No. 33/1999, CS No.1023/1998 and CS No. 52/1999. It is also on record that since the Compromise Decree remained unsatisfied, the Financial Creditor after substituting its name, has filed OA No. 46/2008, OA No. 47/2008 and OA No. 48/2008 under Section 31(A) of the RDDB&FI Act, 1993, before DRT-1, Chennai, for

issuance of Recovery Certificates in terms of Compromise Decrees in CS No. 33/1999, CS No.1023/1998 and CS No. 52/1999. The said OAs were allowed and the Recovery Certificates have been issued in favour of the Financial Creditor. Copies of Recovery Certificates issued by the DRT are placed at pages 46 to 56 of the typed set filed with the Application.

8. The Corporate Debtor have filed reply and raised an objection with regard to the authorization for the purpose of filing Application and further objected that the Applicant is not a Financial Creditor to the Corporate Debtor and the Corporate Debtor is liable to offer only the mortgaged assets, in the event if it is held liable to pay. The Corporate Debtor has also stated in its Reply that the Financial Creditor has expressly denied the existence of any security and they are attempting to play a fraud on the Courts and this Tribunal. Based on this, it has been submitted that the Financial Creditor is not entitled to any of the reliefs.

9. Besides this, there does not appear any valid defence to be raised by the Corporate Debtor. The issues which have been raised by the Corporate Debtor are an afterthought and are not substantiated with any of the documentary evidence. The defence is mere bluster, spurious and only to derail the process of adjudication. Therefore, the defence projected by the Corporate Debtor is completely hollow and stands rejected. On the other hand, the Counsel for the Financial Creditor has placed all the relevant documentary evidence on record by which the default on the part of the Corporate Debtor is ascertained.

10. The Financial Creditor has fulfilled all the requirements of law including the name of the Resolution Professional for appointment as the IRP. Hence, the Application stands admitted. The commencement of the Corporate Insolvency Resolution Process is ordered which ordinarily shall get completed

within 180 days, reckoning from the day this order is passed.

11. Mr. Lingumgunta Venkata Shyam Sundar, is hereby appointed as IRP as has been proposed by the Financial Creditor. There is no disciplinary proceeding pending against the IRP as reflects from Form-2. The IRP is directed to take charge of the Respondent Corporate Debtor's management immediately. He is also directed to cause public announcement as prescribed under Section 15 of the I&B Code, 2016, within three days from the date the copy of this order is received, and call for submissions of claim in the manner as prescribed.

12. The moratorium is hereby declared which shall have effect from the date of this Order till the completion of Corporate Insolvency Resolution Process, for the purposes referred to in Section 14 of the I&B Code, 2016. It is hereby ordered to prohibit all of the following, namely:

- (a) The institution of suits or continuation of pending suits or proceedings against the corporate debtor including execution of any judgment, decree or order in any court of law, tribunal, arbitration panel or other authority;
- (b) Transferring, encumbering, alienating or disposing of by the corporate debtor any of its assets or any legal right or beneficial interest therein
- (c) Any action to foreclose, recover or enforce any security interest created by the corporate debtor in respect of its property including any action under the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (54 of 2002);
- (d) The recovery of any property by an owner or lessor where such property is occupied by or in the possession of the corporate debtor.

13. The supply of essential goods or services of the Corporate Debtor/Guarantor shall not be terminated or suspended or interrupted during moratorium period.

The provisions of Sub-section (1) of Section 14 shall not apply to such transactions, as notified by the Central Government.

14. The IRP shall comply with the provisions of Sections 13 (2), 15, 17 & 18 of the I&B Code. The Directors of the Corporate Debtor, its promoters or any person associated with the Management of the Corporate Debtor are/is directed to extend all assistance and cooperation to the IRP as stipulated under Section 19, so that he could discharge his functions under Section 20 of the I&B Code, 2016. It is further directed to adhere to the model timeline as prescribed under the Insolvency Resolution Regulations; 2016.

15. The Financial Creditor and the Registry are also directed to send the copy of this Order with immediate effect to IRP, so that he could take charge of the Corporate Debtor's assets including the bank accounts etc., and make compliance with this Order as per the

provisions of I&B Code, 2016. The address details of the IRP are as follows: -

**Mr. Lingumgunta Venkata Shyam Sundar,**  
Reg.No. IBBI/IPA-002/IPN00262/2017-  
18/10775,  
3<sup>rd</sup> Floor, No. 17, Gandhi Road,  
Alwarthirunagar,  
Opp to Vinayagar Temple & Above Samyuktha  
Scans,  
Chennai- 600087  
Email ID: shyam.ascend@gmail.com

16. The Registry is directed to communicate this Order to the Financial Creditor and the Corporate Debtor with immediate effect.

17. The Order is dictated and pronounced in the open court in the presence of the Counsel for the parties.

-SD-  
**ANIL KUMAR B**  
MEMBER (TECHNICAL)

-SD-  
**CH. MOHD. SHARIEF TARIQ**  
MEMBER (JUDICIAL)

P.ATHISTAMANI