

**NATIONAL COMPANY LAW APPELLATE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI**

Company Appeal (AT) (Insolvency) No.06 of 2023

IN THE MATTER OF:

Paramjit Gandhi

...Appellant

Versus

**Ashwini Mehra, Chairman
Monitoring Committee of Educomp
Infrastructure & School Management Ltd. & Ors.**

Respondents

Present:

For Appellant: Mr. Gopal Jain, Sr. Advocate with Mr. Shashank Agarwal, Advocate.

For Respondents: Mr. Anshul Sehgal and Mr. Divyanshu Jain, Advocates for R-1.

Ms. Misha, Ms. Charu Bansal and Mr. Krishan Singhal, Advocates for R-2 to 9.

With

**Company Appeal (AT) (Insolvency) No.30 of 2023
& I.A. No.79 of 2023**

IN THE MATTER OF:

Axis Bank & Ors.

...Appellants

Versus

Paramjit Gandhi & Anr.

Respondents

Present:

For Appellants: Ms. Misha, Ms. Charu Bansal and Mr. Krishan Singhal, Advocates.

For Respondents: Mr. Gopal Jain, Sr. Advocate with Mr. Shashank Agarwal, Advocate for R-1.

Mr. Anshul Sehgal and Mr. Divyanshu Jain, Advocates for R-2.

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ORDER

10.04.2023: These two Appeals have been filed challenging the same order dated 11.11.2022 by which I.A. No. 100/2021 was partly allowed and I.A. No. 268/2022 was dismissed. Both the applications were filed by the Successful Resolution Applicant seeking directions with regard to encroachment on the land of the Corporate Debtor and consequential implementation of the Resolution Plan. The Adjudicating Authority has partly allowed the application I.A. 100/2021 and issued necessary directions in Para 17 of the order, which is to the following effect:

“17. Keeping in mind that the object of the Code is the revival of the corporate debtor through the Resolution Process rather than liquidation, this Bench allows a further time of 90 days from the date of this order to both the parties to implement the Resolution Plan. Thus, the Successful Resolution Applicant's prayer to extend the time limit for implementation beyond 7 days is acceded to. He is, however, directed to comply with the financial obligations within the stipulated period of 90 days in the Resolution Plan without linking it to the clearance of the properties of the corporate debtor from encroachment. The Chairman of the Monitoring Committee is directed to initiate all actions to remove the encroachment over the properties of the corporate debtor especially the nine properties mentioned in the email dated 24.12.2020 sent immediately after the approval of the Resolution Plan by this Adjudicating Authority. He

can approach the Revenue and Police Authorities for necessary steps to be taken by them for the removal of the encroachment. The jurisdictional Revenue and Police Authorities are directed to extend full cooperation to the Chairman of the Monitoring Committee in this regard. Considering the fact that it is the duty of the Monitoring Committee to ascertain the extent of the encroachment over the properties of the corporate debtor, we are of the view that there is no requirement for this Adjudicating Authority to separately appoint any local Commissioner to inspect the properties and furnish a report.”

2. Company Appeal (AT) (Ins.) No. 06 of 2023 has been filed by the Successful Resolution Applicant and Company Appeal (AT) (Ins.) No. 30 of 2023 has been filed by the Axis Bank and other lenders.

3. In the earlier proceedings, we had noticed that the steps have been taken for implementation of the plan and on 20.03.2023, parties submitted that the Appellant – Successful Resolution Applicant is at the verge of completion of implementation of plan. Today, both the parties submit that the plan stands implemented w.e.f. 31.03.2023.

4. In view of the fact that the plan stands implemented, we see no reason to entertain this Appeal.

5. Learned counsel for the Appellant submits that the Appellant is also entitled for protection under Section 32A of the Code. Section 32A being a statute regarding liability for prior offences, as and when such occasion arises,

it is always open for the Appellant to seek protection under Section 32A in accordance with law.

6. Learned counsel for the Appellant has lastly contended that the direction made in Para 17 of the impugned order may also be extended to the Successful Resolution Applicant for further implementation of the plan, as and when required. The Adjudicating Authority has already issued necessary directions, appropriate measures be taken towards the implementation of the plan accordingly. With these observations, we dispose of these appeals.

[Justice Ashok Bhushan]
Chairperson

[Barun Mitra]
Member (Technical)

Archana/nn