

IN THE NATIONAL COMPANY LAW TRIBUNAL: NEW DELHI
PRINCIPAL BENCH

Item No. 111
(IB)-1795(PB)/2018

IN THE MATTER OF:

Madhulika Saraf & anr.

.... Applicant/petitioner

Vs.

AVJ Developers (India) Pvt. Ltd.

.... Respondent

Order under Section 7 of Insolvency & Bankruptcy Code, 2016

Order delivered on 21.01.2019

Coram:

CHIEF JUSTICE (RTD.) M. M. KUMAR
HON'BLE PRESIDENT

DR. DEEPTI MUKESH
HON'BLE MEMBER (JUDICIAL)

PRESENTS:

For the Petitioner(s):- Mr. Nikhil Kumar, Adv.

For the Respondent(s):- None.

ORDER

Against the same corporate debtor, a petition under Section 9 of Insolvency and Bankruptcy Code, 2016 has already been admitted by co-equal bench titled as M/s. RMC Ready Mix (India). v. M/s. AVJ Developers (India) Private Limited, [(IB)-260(ND)/2018] vide order dated 20.12.2018. As per the provisions of Section 11 of the Code, 2016 another Corporate Insolvency Process cannot be initiated against a corporate debtor that is undergoing a corporate insolvency resolution process. However, it is needless to add that the petitioners would be entitled to file their claim before the Insolvency Professional namely Mr. Ashok Kumar Juneja, Registration No. IBBI/IPA-002/IP-N00117/2017-18/11286, Email Id: ashokjuneja@gmail.com in accordance with law which shall be duly considered.

2. The Interim Resolution Professional shall perform all his functions religiously and strictly which are contemplated, *interalia*, by Sections 15, 17, 18, 19, 20 & 21 of the Code. He must follow best practices and principles of fairness which are to apply at various

stages of Corporate Insolvency Resolution Process. His conduct should be above board & independent; and he should work with utmost integrity and honesty. It is further made clear that all the personnel connected with the Corporate Debtor, erstwhile directors, promoters or any other person associated with the Management of the Corporate Debtor are under legal obligation under Section 19 of the Code to extend every assistance and cooperation to the Interim Resolution Professional as may be required by him in managing the affairs of the Corporate Debtor. In case there is any violation committed by the ex-management or any tainted/illegal transaction by ex-directors or anyone else the Interim Resolution Professional/Resolution Professional would be at liberty to make appropriate application to this Tribunal with a prayer for passing an appropriate order.

3. It is made clear that if for any reason the Appellate Tribunal set aside the order dated 20.12.2018 then the petitioner shall be entitled to file appropriate application for revival of the petition or file a fresh petition.

4. The petition is dismissed as having been rendered infructuous with liberty in terms of the order.

-Sd-

(M. M. KUMAR)

-Sd-

(DR. DEEPTI MUKESH)
MEMBER (JUDICIAL)