

**IN THE NATIONAL COMPANY LAW TRIBUNAL
MUMBAI BENCH, COURT II**

IA. No. 1236/2021 & 1767/2021

In

CP(IB)No. 3603/MB/C-II/2018

**Application filed under section 60(5) of the
Insolvency and Bankruptcy Code, 2016 , r/w Rule
11 of the National Company Law Tribunal Rules,
2016.**

Filed by

Union Bank of India

...Applicant

In the matter of

Union Bank of India

...Financial Creditor

Versus

Phadnis Resorts and Spa India Ltd.

...Corporate Debtor

Order Pronounced on :- 08.07.2022

Coram:

Hon'ble Member (Judicial) : Justice P.N. Deshmukh (Retd.)

Hon'ble Member (Technical) : Mr. Shyam Babu Gautam

Appearances (through video conferencing)

For the Applicant : Mr. Nausher Kohli, Adv.

For the Respondent : Ms. Madhavi Nalluri, Adv.

ORDER

Per: Justice P.N. Deshmukh, Member Judicial

1. The present Interlocutory application is filed by Union Bank of India, being financial creditor and member of Committee of Creditors (CoC) of the Corporate Debtor having a 64% voting share. The said Application is filed seeking certain clarification in the Resolution Plan. The Union Bank of India has sought clarification as to the time frame within which the Resolution Applicant will infuse sum of Rs. 4 Crores. Further, the Applicant also seeks clarification from the Resolution Applicant regarding the tenure of the Monitoring Committee as being only for 30 days and seeks to extend the time frame to 1277 days.
2. The Resolution Applicant has provided all the necessary clarifications as sought by the Applicant. The Resolution Applicant has made it clear in its Clause 5 of the Additional Affidavit (pg. 398-400) filed in IA No. 3969 of 2019 as to the amount of Rs. 4 Crores to be infused and spent as and when required in the 1st year itself on the resort at Lonavala and at Alibaug properties as approved under the Resolution Plan.
3. Further, clarification sought with regard to the tenure of the Monitoring Committee, the Resolution Applicant has cleared that the Plan envisages adequate means for supervising and implementation of the

Plan in as much as the assets of the Corporate Debtor would continue to be mortgaged with the Financial Creditors and the Creditors will be provided with Management Information System (MIS) of the business and also the Creditors to be allowed to inspect the properties, account books.

4. Further the plan also provides that the partners of the Resolution Applicant will be available in person before the members of the CoC as and when called on notice of 15 days.
5. On perusal of the records and Additional Affidavit filed in IA 3969 of 2019, it is noted that after more than a span of 16 months of the approval of the amended Resolution Plan. The Plan had already been discussed and deliberated upon and thereafter put to vote and was approved by the members of CoC with 100% voting, considering its feasibility and viability. The present IA 1236 of 2021 has been filed by the Applicant at a belated stage and as an afterthought to derail and delay the proceedings in IA 3969 of 2019 filed for Approval of the Resolution Plan. Hence, the clarifications sought by the Applicant have been made clear by the Resolution Applicant and also once the Resolution Plan is approved by the members of the CoC, the role of the Adjudicating Authority is limited to the provisions under section 31 (1)

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of the Insolvency and Bankruptcy Code, 2016 (Code) to determine whether the requirements under Section 30 (2) of the Code have been fulfilled.

6. In view of the above, **IA 1236 of 2021 is hereby dismissed**. Further, IA 1767 of 2021 was filed by the Resolution Applicant for intervening and prayed for the dismissal of the present Application. This Bench is of the view that the Resolution Applicant has no locus to intervene in the present Application. Further, as IA 1236 of 2021 has already been dismissed, **IA 1767 of 2021 is disposed of as infructuous**.

Sd/-

**SHYAM BABU GAUTAM
MEMBER (TECHNICAL)**

Sd/-

**JUSTICE P.N. DESHMUKH
MEMBER (JUDICIAL)**