

NATIONAL COMPANY LAW TRIBUNAL
COURT ROOM NO. 1,
MUMBAI BENCH

Item No. 15

IA 1584/2024 (NEW IA) IA 3958/2023 IA 3973/2023 IA 4136/2023 IA 4138/2023 IVN.P 18/2024 in C.P. (IB)/4578(MB)2018

CORAM:

SH. PRABHAT KUMAR JUSTICE VIRENDRASINGH BISHT (Retd.)
HON'BLE MEMBER (TECHNICAL) HON'BLE MEMBER (JUDICIAL)

ORDER SHEET OF THE HEARING ON **08.04.2024**

NAME OF THE PARTIES: **NITIN SURESH SATGHARE & ORS V/S**
 PANCARD CLUB LTD

Section 60(5) & 7 of the Insolvency and Bankruptcy Code, 2016

ORDER

IA 1584/2024 in C.P. (IB)/4578(MB)2018

- 1) Ms. Ankita Bajpai, Ld. Counsel for the Applicant and Mr. Gaurav Shrawat, Ld. Counsel for the Respondent Nos. 1 and 2 are present.
- 2) Ld. Counsel for the Applicant, on instructions, submits that they are not pressing the present Interlocutory Application at this stage, as the Respondent has already preferred an Appeal before the Hon'ble Supreme Court in the matter connected to the present Application, and the said Appeal is *sub judice* before the Hon'ble Supreme Court.
- 3) Counsel further submits that the present Interlocutory Application cannot be proceeded further unless the said Appeal is decided by the Hon'ble Supreme

Court. In that view of the matter, we dispose of the present Interlocutory Application bearing IA No. 1584 of 2024, on account of the pendency of the Appeal before the Hon'ble Supreme Court. Thus, the Counsel orally seeks leave of this Bench for withdrawal of the present Interlocutory Application. Leave as prayed is allowed.

- 4) However, the disposal of the present Interlocutory Application shall not fetter the Applicant herein to file appropriate Application after the decision of the Hon'ble Supreme Court in the said Appeal.
- 5) With the aforesaid observation and direction, the Interlocutory Application bearing IA No. 1584 of 2024, is disposed of as allowed to be withdrawn.

IA 3958/2023 IA 3973/2023 IA 4136/2023 IA 4138/2023

- 1) Ms. Ankita Bajpai, Ld. Counsel for the Applicant and Mr. Amir Arsiwala, Ld. Counsel for the Respondents, Mr. Yash Badkur, Ld. Counsel for the Respondent No. 5 and Mr. Prasad Sarvankar, Ld. Counsel for the Respondent No. 6 in IA No. 4136, are present.
- 2) Ld. Counsel for the Resolution Professional is directed to file and place on record synopsis of Transaction, issue involved in the present matter, defence taken by the Respondents and the Response of the Applicant to that defence.
- 3) Stand over to 07.05.2024, for further consideration and hearing. Needless to say, Respondents those who have not filed Replies shall be ready with their Replies on the next date of hearing and copies of the same shall be served

upon the Applicant in advance so that the Applications can be heard on the next date of hearing.

IVN.P 18/2024 in C.P. (IB)/4578(MB)2018

- 1) Mr. Ankit Lohia, Ld. Counsel for the Applicant, Mr. Amir Arsiwala, Ld. Counsel for the Committee of Creditors, Mr. Pulkit Sharma, Ld. Counsel for the Successful Resolution Applicant are present.
- 2) The present Intervention Petition bearing No. 18 of 2024 has been filed in the Interlocutory Application bearing IA No. 8 of 2024, by the Applicant, Vishal Ravindra Sapte, seeking intervention in IA No. 5383 of 2023, which was dismissed by this Bench *vide* order dt. 02.02.2024. It is submitted that the said Application was decided without considering the Intervention Application filed by the Intervener herein. However, it is submitted that the Resolution Professional has now preferred an Interlocutory Application bearing IA No. 8 of 2024, seeking approval to the Resolution Plan submitted by the alleged Successful Resolution Applicant as mandated u/s 31 of the Insolvency and Bankruptcy Code, 2016.
- 3) It is submitted by the Applicant herein that they are the claimant of the Corporate Debtor and are deeply aggrieved by the illegalities and irregularities in the process in violation of the letter and spirit of law and hence, approached this Bench seeking rejection of the Plan and other reliefs hence, this Application also submit additional grounds seeking disapproval of the Plan.

- 4) The Applicants said that they had earlier filed IA with e- filing no. 2709138002052024 dated 06.01.2024 & vide e-filing no. 2709138014462024 dated 05.02.2024, intervening in IA 5383 of 2023 filed by Ashdan Properties Limited, objecting to the plan process on various grounds. However, the IA could not be put up before the Tribunal by the registry department, as it was filed somewhat late and there were certain objections by the department.
- 5) Interveners have since then complied with the objections raised by the department and have complied with the objections but however, the said Application is yet to be numbered as on the date of filing of this Application. However, since the main matter has been heard and disposed of, the above IA has become infructuous without being heard. The Applicant/Intervener hence is requesting that same may be treated as part and parcel of the present Intervention Application. The Applicant/Intervener adopt each and every ground contained therein which advances the cause of the Interveners as also submit the additional grounds hereunder.
- 6) The Applicant/Intervener observes that the resolution plan of Successful Resolution Applicant ("SRA") is much inferior to the plan of the Ashdan Properties Private Limited & Shanti Hospitality. SRA's plan offers significantly lower amount than the liquidation value. On perusing the details, Applicant/Intervener observe that there has been total irregularity and illegality and gross abuse of the process by interested parties to favour

the plan of SRA. This has been aided and abetted by process constrained due to peculiar circumstances like diffused ownership, majority shying away from the process or not being made a part of it, non-availability of records and vested interests. If the plan of SRA is approved, all the investors would receive substantially lesser amount than what the other plan offers.

- 7) The Applicant/Intervener therefore had a relook at the entire Process and found out that plan of Chemhub and sanction thereof by the CoC is totally illegal, void, and apprehend that it may have even been fraudulently facilitated.
- 8) The Applicant/Intervener submit that the Interlocutory Application preferred by the Resolution Professional seeking approval of the Plan needs to be dismissed outright and irregularities referred to Insolvency and Bankruptcy Board of India for looking into it and initiating appropriate corrective action.
- 9) Hence, the present Interlocutory Application.
- 10) We have heard Ld. Counsel for the Parties and perused the material available on record.
- 11) IA 5383 of 2023, was filed by M/s Ashdan Properties Pvt. Ltd., the unsuccessful Resolution Applicant and the same was dismissed by this Bench. This present Interlocutory Application is the intervention by some of the Creditors in the class of Financial Creditors represented by an Authorised Representative. It is noticed that few of the Members of the class have voted in favour of the Plan; some had abstained from the Voting. It is trite law that

in case of class of Creditors an individual hearing to some of the Members of that Class cannot be afforded and those Members are bound by the majority vote of that Class.

12) The Resolution Plan has been filed by the Resolution Professional and is Reserved for Orders by this Tribunal. Nonetheless, the objections in relation to the Process have already been considered and dealt with by this Bench in the earlier orders passed in this relation; accordingly, we are of the considered view that this Application is not maintainable on the Ground of the Locus.

13) With the aforesaid observation and directions, the Intervention Petition bearing IVN.P. 18 of 2024, is disposed of as dismissed. No costs. File be consigned to record.

Sd/-

PRABHAT KUMAR
MEMBER (TECHNICAL)

Sd/-

JUSTICE VIRENDRASINGH BISHT
MEMBER (JUDICIAL)

Vedant Kedare