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

Item No. 37

IA(I.B.C)/4492(MB)2025 IN C.P. (IB)/2525(MB)2019

CORAM:

SH. PRABHAT KUMAR **SH. SUSHIL MAHADEORAO KOCHEY**
HON'BLE MEMBER (TECHNICAL) **HON'BLE MEMBER (JUDICIAL)**

ORDER SHEET OF THE HEARING ON **02.06.2026**

NAME OF THE PARTIES: **IA(I.B.C)/4492(MB)2025 - V SQUARE & BOMBAY ROAD CARRIER A Consortium Through Authorised Signatory MR VISHWANATH V. JARE VS SURESH MOTWANI IN THE MATTER OF ORIENTAL BANK OF COMMERCE V/s VIVITA LIMITED**

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

ORDER

IA(I.B.C)/4492(MB)2025 IN C.P. (IB)/2525(MB)2019

1) Ld. Counsel for the Parties are present.

2) The present Interlocutory Application has been filed by the Applicant/ **V Square & Bombay Road Carrier,** praying for the following reliefs:

i. *Be pleased to allow the present Application;*

ii. *Be pleased to issue show cause notice against the Respondents as to why contempt proceedings against the Respondents acting through their officials as envisaged u/s 12 of Contempt of Court Act, 1971 r/w section 425 of the Companies Act, 2013 should not be initiated against the Respondents;*

iii. ***Be pleased to initiate contempt proceedings against the Respondents acting through their officials as envisaged u / s 12 Contempt of Court Act, 1971 r /w section 425 of the Companies Act, 2013;***

3) The brief facts leading to the case in hands are as follows:

i. The Corporate Insolvency Resolution Process against the Corporate Debtor was initiated by an Order dt. 19.09.2019, pursuant to the admission of the Petition filed by the Financial Creditor. Thereafter, the Resolution professional filed an Application seeking approval of the Resolution Plan submitted by a consortium led by the Applicant. The said Resolution Plan was approved by this Adjudicating Authority vide an Order dt. 21.06.2021.

ii. As per the approved Resolution Plan, an Implementation and Monitoring Committee (IMC) was constituted, and payments were to be made in line with the timelines and conditions outlined in the plan.

iii. **It is submitted by the Applicant that despite facing several challenges and non-cooperation from the Respondents as well as from the Monitoring Committee, completed the payments envisaged in the Plan on 12.08.2022**.

iv. The Applicant, in the first Meeting of IMC held on 02.07.2021, requested possession of the Corporate Debtor's premises and a No Objection Certificate from the Financial Creditors to facilitate the sale of 2.75 acres of unutilised land owned by the Corporate Debtor. **It is further submitted by the Applicant that erstwhile RP informed the Applicant that full transfer and possession of the CD would be provided only upon full payment and receipt of NOC from the Financial Creditors**. During the second IMC meeting on 16.08.2021, the Applicant once again sought clarity regarding the NOC process. In response, the erstwhile Resolution Professional indicated that since the Resolution Plan had been approved, it was the responsibility of the Successful Resolution Applicant to initiate necessary communications with the lead bank (PNB), although the RP assured assistance in facilitating such discussions. However, despite this assurance, no such assistance was ever provided.

v. Owing to repeated inaction by the IMC and the RP, the Applicant was compelled to file various applications before this Hon'ble Tribunal seeking reliefs to ensure implementation of the Resolution Plan. These difficulties were further compounded by the outbreak of the COVID-19 pandemic, which disrupted the Applicant's business operations for nearly two years, leading to certain delays in payments. Moreover, the erstwhile RP Mr. Subrata Maity was suspended by the IBBI following an FIR dated 04.05.2022, and his registration was suspended vide IBBI order dated 09.05.2022. It was only on 07.09.2023-after a delay of nearly 17 months-that Mr. Amit Poddar was appointed as the new RP. However, due to the absence of a proper handover, daily operations and compliance with the plan suffered significantly.

vi. In the same order dated 07.09.2023, this Hon'ble Tribunal had directed the Corporate Debtor to hand over all relevant documents and information to the newly appointed RP within one week, failing which coercive measures would follow. Later, on 12.12.2023, counsel for the erstwhile RP stated before the Tribunal that, as per his knowledge, the plan had been successfully implemented and all records had been handed over. Subsequently, vide order dated 10.11.2023, this Hon'ble Tribunal directed the Monitoring Committee to resolve the issues raised by the Applicant within a period of three months.

vii. Despite the RP's assurance during the sixth and seventh IMC meetings held on 03.11.2024 and 02.02.2025, respectively, none of the concerns raised by the Applicant were addressed. As a result, the Applicant was forced to file another application seeking recall and restoration of the order dated 10.11.2023, which was eventually allowed.

viii. Thereafter on 06.02.2025 the counsel for Punjab National Bank (PNB) submitted that the bank did not possess the original title documents of the Naigaon property and that these remained with the suspended management. In light of this admission, the Tribunal called upon the bank to explain why the original documents were not in its custody and instead were with the Respondents. Thereafter, the Respondents preferred an appeal against the Tribunal's order dated 25.02.2025 before _the Hon'ble NCLAT in Company Appeal (AT) (Insolvency) No. 647 of 2025. The Hon'ble NCLAT, however, dismissed the appeal by order dated 31.07.2025.

ix. Despite dismissal of their appeal, the Respondents have failed to comply with the directions issued by this Hon'ble Tribunal in its order dated 25.02.2025. They have not handed over the original documents relating to the property, thereby willfully and deliberately disobeying the Tribunal's order. As such, the Applicant is constrained to approach this Hon'ble Tribunal once again, through the present Application, seeking appropriate directions and reliefs for non-compliance.

Submissions on behalf of the Financial Creditor, Punjab National Bank: -

4) It is submitted by the Punjab National Bank that the Resolution Professional while tracing the assets of the Corporate Debtor noticed that the said subject property was already sold by the erstwhile Management of the Corporate Debtor and that the erstwhile Oriental Bank of Commerce had a prior charge over the said subject property, which was reflected in the CERSAI Records. The Resolution Professional also mentioned the same in the Information Memorandum while inviting Expressions of Interest for Resolution of the Corporate Debtor. It is submitted that the Information Memorandum states that the said subject property is sold. The Information Memorandum stated inter alia that *"Gut No. 500, 509, 510 are still mortgaged with Oriental Bank of Commerce as per CERSAI Reports but these Gut Numbers has been sold by Vivita Limited* *to Deepesh Gautam Dhariwal.* It is to be noted that the Resolution Plan approved by this Tribunal also mentioned that the said Subject Property is *"sold to Deepesh Gautam Dhariwal where as per CERSAI, Plots are mortgaged with Oriental Bank of Commerce".* It is further submitted that the Resolution Plan demonstrates that the SRA was aware of the same and has not made any proposal in the Resolution Plan with respect to the Subject Property.

5) Heard Ld. Counsel for the Parties extensively for a considerable time and perused the material available on record.

6) Vide Order dt. 25.02.2025, this Tribunal has directed the Suspended Board or the Financial Creditors, as the case may be, to handover the original records, including original title deeds and NoC to the Applicant without any further delay. It is clear from the Information Memorandum as well as the approved Resolution Plan that the Original Title Deed in respect of Gut No. 500, 509, 510 are not available with the Respondent/Punjab National Bank, the Successor Oriental Bank of Commerce , to whom the said Property was mortgaged by the Corporate Debtor.

7) It is also submitted by the Respondent that the Respondent Bank had not exercised any security interest arising from Mortgage of the above said property in the CIRP of the Corporate Debtor, as it had already noticed that the Original Title Deeds are not available in their Records and the Original Title Deeds may have got misplaced or returned to the Suspended Board Members of the Corporate Debtor by the Officers of predecessor Bank/GTB Bank, who was merged into the Oriental Bank of Commerce and subsequently into the Respondent Bank later on. The Respondent Bank has also placed on record an Investigation Report dt. 11.02.2026, and has stated in the Reply as follows:

> *f) During this process, the Bank obtained a search report from the books of Reg-istrar Office at Maval in Pune district on 08.04.2016 through Advocate Sopan-rao Mane. A copy of the Title search report is marked and annexed as Exhibit-C.*
>
> *g) As per the report, M/s Vivita Limited through its director Mr. Suresh Motwani sold the aforesaid property to Mr. Dipesh Gautam Dhariwal by virtue of agreement of sale registered in the office of sub-registrar Taluka Maval at Sr.No.343/2007 dated 09.01.2007. Subsequently, M/s Vivita Ltd. sold the afore-said property to Mr. Ashok Badalmal Kukreja and Ors by making Mr. Dipesh Gautam Dhariwal as consenting party to the said deed which is registered in the oflice of Sub-registrar Maval at Si no.8946/07 dated 18.09.2007.*
>
> *h) It is pertinent to note that the above two transactions took place without knowledge of the Bank. In this regard, on 22.04.2016, a*

letter was sent to the Director, but there was no response to the same. A copy of the letter dated 22.04.2016 is marked and annexed as Exhibit-D.

i) Subsequently, on 25.04.2016, the matter was reported to the General Manager, Regional office, Mumbai by the ARMB Branch. In the said letter it is reported that the branch is not able to trace the original title deeds in respect of the said properties and they have requested the local advocates to obtain the Certified copies of those original title deeds from Registrar Office, Maval, Pune District. In the said letter, it is also mentioned that the Branch has sought legal opinion from its advocate with regard to action to be initiated against the director of Vivita Ltd. A copy of the letter dated 25.04.2016 is marked and annexed as Exhibit-E.

8) The above said Report clearly indicates that the Original Title Deeds are not available with the Respondent Bank, hence, it cannot be said that the Respondent Bank has failed to handover the Original Title Deeds to the Applicant in wilful disobedience of the Order dt. 25.02.2025. Hence, the present Application seeking Contempt against the Respondent Bank does not lie before this Tribunal in terms of the provisions of Section 2(b) of the Contempt of Courts Act, in the absence of disobedience of the Order.

9) In view of the above, the Interlocutory Application bearing IA No. 4492 of 2026, is dismissed and disposed of.

Sd/-	**Sd/-**
PRABHAT KUMAR **MEMBER (TECHNICAL)**	**SUSHIL MAHADEORAO KOCHEY** **MEMBER (JUDICIAL)**

Vedant Kedare
(Stenographer)