

ITEM NO.3

Court 5 (Video Conferencing)

SECTION XVII

S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G S

Civil Appeal No.3073/2020

MUKESH KUMAR AGGARWAL

Appellant(s)

VERSUS

ANURAG GUPTA, & ANR.

Respondent(s)

(With appln.(s) for IA No.86521/2020-EXEMPTION FROM FILING C/C OF THE IMPUGNED JUDGMENT and IA No.86520/2020-STAY APPLICATION and IA No.86523/2020-EXEMPTION FROM FILING O.T.)

Date : 17-11-2020 This appeal was called on for hearing today.

CORAM :

HON'BLE DR. JUSTICE D.Y. CHANDRACHUD
HON'BLE MS. JUSTICE INDU MALHOTRA
HON'BLE MS. JUSTICE INDIRA BANERJEE

For Appellant(s)

Mr. Jayant Mehta, Adv.
Mr. Swapnil Gupta, Adv.
Mr. H. Pawar, Adv.
Mr. Ishaan Karki, Adv.
Mr. Ujjal Banerjee, AOR

For Respondent(s)

UPON hearing the counsel the Court made the following
O R D E R

- 1 Mr Jayant Mehta, learned counsel appearing on behalf of the appellant submits that the adjudicating authority as well as the NCLAT have manifestly committed an error in admitting the insolvency application because there was no financial debt due and owing to the first respondent from the company. The submission is that the insolvency application filed by the first respondent was an evident attempt to avoid complying with the MOU dated

27 January 2016, under which, the first respondent as an erstwhile Director pledged his shareholding to secure the payment of an amount of Rs 20.5 crores to the appellant. Moreover, there are reports of the Regional Director in the Ministry of Corporate Affairs from which it would be evident that there is no loan due and outstanding to the first respondent. Hence, it has been submitted that (i) the reports of the Regional Director in the Ministry of Corporate Affairs have not been taken into account and, (ii) there was no financial debt owing by the Corporate Debtor to the first respondent within the meaning of Section 5(8) of the Insolvency and Bankruptcy Code 2016.

- 2 Issue notice.
- 3 Pending further orders of this Court, there shall be an ad-interim stay of the operation of the impugned judgments and orders of the NCLT dated 10 October 2019 and of the NCLAT dated 8 June 2020 in Company Appeal (AT) (Insolvency) No 1264 of 2019.

(CHETAN KUMAR)
A.R. -cum-P.S.

(SAROJ KUMARI GAUR)
Court Master