



IN THE NATIONAL COMPANY LAW TRIBUNAL
JAIPUR BENCH

**CORAM: SHRI DEEP CHANDRA JOSHI,
HON'BLE JUDICIAL MEMBER**

**SHRI ATUL CHATURVEDI,
HON'BLE TECHNICAL MEMBER**

IA(IBC)No.645/JPR/2022
In CP No. 26/7/JPR/2020

IN THE MATTER OF:

P.S. METAL WORKS

...Financial Creditor

VERSUS

M/S JEPH BEV PRIVATE LIMITED

...Corporate Debtor

MEMO OF PARTIES

IA(IBC) No. 645/JPR/2022:

ANOOP BHATIA

Resolution Professional for M/s Jeph Bev Pvt. Ltd.

C-44, Model Town, Malviya
Nagar, Jaipur, Rajasthan-302017

...Applicant

VERSUS

MR. VIKAS JEPH

Suspended Director for M/s Jeph Bev Pvt. Ltd.

M-80, Tonk Road, Mahesh
Colony, Gandhi Nagar, Jaipur-
302015 (Rajasthan)

...Respondent No. 1

MRS. PINKY JEPH

Suspended Director for M/s Jeph Bev Pvt. Ltd.

M-80, Tonk Road, Mahesh
Colony, Gandhi Nagar, Jaipur-
302015 (Rajasthan)

...Respondent No. 2



FOR PETITIONER (S) : Mr. Nitesh Shrivastava, Adv.
Anoop Bhatia, RP in person

FOR RESPONDENT (S) : Nikhil Yadav, Adv.

Order Pronounced On: 19.09.2023

ORDER

Per: Shri Atul Chaturvedi, Technical Member

1. The present application bearing *IA (IBC) No. 645/JPR/2022* has been filed by the *Mr. Anoop Bhatia* being the Resolution Professional ('RP') of the Corporate Debtor i.e. *M/s Jeph Bev Pvt. Ltd.* under Section 19(2) and Section 19(3) of the Insolvency and Bankruptcy Code, 2016 ('IBC'/ 'Code') for issuance of necessary directions to the Suspended Directors to co-operate in the Corporate Insolvency Resolution Process ('CIRP') of the Corporate Debtor.
2. It is seen that earlier an Application was filed by *M/s P.S. Metal Works* ('Financial Creditor') under Section 7 of the Code for initiation of CIRP of the Corporate Debtor. The same was admitted vide order dated 16.09.2022 and the Applicant was appointed as the Interim Resolution Professional who was later confirmed as the Resolution Professional by the Committee of Creditors ('CoC') in the 1st meeting held on 20.10.2022.
3. The present Application has been filed on the following grounds:
 - 3.1. The Applicant informed both the Suspended Directors of the Corporate Debtor about the admission of the main Petition and subsequent appointment of the Applicant as IRP through e-mail dated 23.09.2022



and personal visit dated 22.09.2022. It has been submitted that the Applicant along with his team members personally visited the Registered office of the Corporate Debtor and further sought information from the Respondents so as to ascertain the financial position and operations of the Corporate Debtor.

3.2. However, the Applicant has not been able to obtain physical possession of all the assets of the Corporate Debtor, owned or in possession of as on date of the admission of the CIRP, including the registered office of the Corporate Debtor. The team of the RP visited the Una (Himachal Pradesh) factory site of the Corporate Debtor on 26.09.2022 and requested the handing over the possession. The Representative of the Corporate Debtor available at UNA site did not cooperate and only after constant efforts, the possession was taken over by the Applicant on 10.11.2022 with delay of 45 days from the date of the first visit on 26.09.2022.

3.3. It has been contended that since the Corporate Debtor was a partly going concern, the Applicant decided to convene the 2nd CoC meeting from the Registered office of the Corporate Debtor and thereby issues notices. On the date fixed for the 2nd CoC meeting i.e. 09.11.2022, the Applicant along with his team members were not permitted to enter the Registered office of the Corporate Debtor on the ground that the landowner of the said premises had already given notice to the



Corporate Debtor to vacate its office in the month of January 2022. Due to the aforementioned, the meeting had to be relocated to another address.

- 3.4. Later, when the Applicant sought information regarding the ownership of the Registered office of the Corporate Debtor, it was informed that the Suspended Directors were the owners and the landowners had already given notice in January 2022 to the Corporate Debtor to vacate the premises on account of failure to pay the rent. Upon request, the Respondents permitted the Corporate Debtor to continue business from the said registered office until another suitable place is found. The Applicant vide e-mail dated 11.11.2022 questioned the Respondents regarding the ownership details of the registered office but the Suspended Directors vide reply dated 12.11.2022 gave no affirmative answer.
- 3.5. Thereafter, the Applicant came to know regarding the lease deed dated 12.05.2016 executed between the Respondent No. 1 in capacity of owner/lessor and the Corporate Debtor valid for a period commencing from 15.05.2016 to 14.05.2019. No such notice has been produced by the Respondents wherein the Corporate Debtor was directed to vacate the premises. Since, the Corporate Debtor was operating from the said premises as on date of initiation of CIRP, the Respondents are to be



restrained from directing vacation of the said premises at their own whims and fancies.

- 3.6. Also, the Respondents have illegally withdrawn/diverted the amount of Rs. 22,01,373/- (Rupees Twenty-Two Lakhs One Thousand Three Hundred and Seventy-Three Only) from the period 16.09.2022 to 22.09.2022, in reference to which another application has been filed by the Applicant bearing *IA No. 617/JPR/2022*. Moreover, the Statutory Auditors of the Corporate Debtor have sought certain information from the Respondents in relation to the Audit process of the Corporate Debtor which has not been provided. Resultantly, the Statutory Auditor/ Applicant could not finalise the Balance Sheet of the Corporate Debtor for the year ending 31.03.2022. Hence, the conduct of the Respondents is causing continuous hindrance in the CIRP of the Corporate Debtor.
4. The Respondents have preferred their reply to the Application vide Diary No. 655/2023 dated 14.03.2023 wherein it has been mentioned that the information regarding the CIRP was first received on 22.09.2022, when the IRP visited the office of the Corporate Debtor. Moreover, the details of the Fixed Assets were handed over to the RP on the first visit itself. Also, the Respondents have submitted that the Company is a separate legal entity under the provisions of law and therefore, the Corporate Debtor has no right



to use the said premises owned by the Suspended Directors after the notice seeking vacation of the premises was served upon the Corporate Debtor.

5. We have heard the Ld. Counsels for the parties and perused the averments made in the Interlocutory Application and reply along with the documents enclosed with the application.
6. Section 19 of the Code casts an obligation on the personnel and promoters of the Corporate Debtor to extend all assistance and co-operation required by the Resolution Professional in the management of the affairs of the Corporate Debtor. Section 19(2) empowers the Resolution Professional to file appropriate application before this Adjudicating Authority to seek necessary directions and the Adjudicating Authority must issue direction to such to such defaulting personnel to cooperate with the Resolution Professional.
7. In the present case, it is observed that the Resolution Professional is seeking co-operation from the Suspended Directors of the Corporate Debtor under Section 19 of the Code. It has been contended that the Suspended Directors are the owners of the Registered office of the Corporate Debtor and therefore, are not allowing the Resolution Professional to take possession of the Registered Address on account of unpaid rent. It is seen from the documents that the Respondent No. 1 had entered into a lease deed with the Corporate Debtor for a period of three years i.e. 15.05.2016 to 14.05.2019. The Respondents have contended that the since the Corporate Debtor is a



separate legal entity from its Directors, it is not entitled to claim a right over the property.

8. It is observed that even though the lease has concluded, at the time of initiation of the CIRP of the Corporate Debtor, the Corporate Debtor was in possession of the said premises i.e. 37-37, Tagore Nagar, Ajmer Road, Jaipur- 302021, which also happens to be the Registered address of the Corporate Debtor. Moreover, the Respondent No. 1 stated that a notice seeking eviction was given to the Corporate Debtor by virtue of which the Corporate Debtor is not entitled to use the premises. The said vacation notice seeking eviction from the registered premises has not been produced before us. Therefore, the contention of the Respondents regarding the eviction of the Corporate Debtor is not tenable. It seems that the Respondents are trying to hinder the CIRP of the Corporate Debtor by implying such tactics.
9. In view of the foregoing and after consideration of the prayers of the Applicant, this Application stands allowed with the following directions:
 - 9.1. The Respondents shall extend necessary co-operation and provide all information as sought by the Applicant and the Statutory Auditors and make available all the documents as prayed for within a period of 15 days from the date of this order.
 - 9.2. The possession of the Registered Office of the Corporate Debtor i.e. Plot No. 36-37, Tagore Nagar, Ajmer Road, Jaipur shall be handed



over to the Applicant within 7 days from the date of this Order. If the Respondents fail to co-operate, then the Applicant is directed to take necessary help from the concerned Superintendent of Police, where the property is situated to take possession of the property.

10. The RP shall be at liberty to move appropriate application in case of any breach of the direction mentioned above. Furthermore, the non-compliance with the aforesaid direction would attract strict penalties. Upon non-compliance of the directions enumerated above, the Respondents are directed to remain present in person either physically or through virtual mode to explain their non-compliances.
11. The Registry is directed to serve a copy of this Order to the Respondents. The Resolution Professional shall also be duty bound to inform the respondents. Accordingly, IA No. 645/JPR/2022 stands disposed of.

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**DEEP CHANDRA JOSHI,
JUDICIAL MEMBER**

-Sd-

**ATUL CHATURVEDI,
TECHNICAL MEMBER**