

**NATIONAL COMPANY LAW APPELLATE TRIBUNAL  
PRINCIPAL BENCH, NEW DELHI**

**Company Appeal (AT) (Insolvency) No. 411 of 2023**

**&**

**I.A. No. 1364 of 2023**

**IN THE MATTER OF:**

**HDFC Bank Ltd.**

**...Appellant**

**Versus**

**Kanti Mohan Rustagi & Anr.**

**...Respondents**

**Present:**

**For Appellant:** Mr. Dhruv Gupta, Advocate

**For Respondent:** Advocate Rajat Chaudhary, Advocate Ravikant Sharma, Advocate Gautam Singhal, for ICICI Bank  
Advocate Abhishek Parmar, for Liquidator

**ORDER**

**18.04.2023:** Heard Learned Counsel for the Appellant.

2. This Appeal has been filed against the Order dated 20<sup>th</sup> January, 2023 by which order I.A. No. 2342 of 2020 filed by the Appellant has been dismissed. The Car HR70C 5546 (MERCEDES BENZ S320) was in the custody of the Appellant and was sold in the Liquidation. The issues between the parties HDFC Bank as well as ICICI Bank has with regard to sharing of the CIRP Cost and Parking Charge.

3. The Appellant's case is that the CIRP cost should be shared by the ICICI Bank.

4. We have seen the Order of the Adjudicating Authority dated 15.09.2022, where the Adjudicating Authority has passed following Order:

*“Ld. Counsel for ICICI Bank appeared and Ld. Counsel for the HDFC Bank also appeared.*

*We are appalled by the conduct of the Ld. Counsels for the Banks who were fighting for the sale of one Mercedes Benz. The Chief Managers of both the Banks are directed to sit together and resolve the issue. These matters are not so serious for NCLT to consider and our time is wasted unnecessarily.*

*List the matter again on 21.10.2022 for physical hearing.”*

5. The Adjudicating Authority has directed both the Banks to sit together and resolve the issue. Learned Counsel for the Appellant submits that ICICI Bank is not sharing the cost and not sharing the burden which ought to be shared it due to participation in the proceeding.

6. Learned Counsel for the Appellant submits that ICICI Bank was part of the process of the CIRP, which we do not find to be correct statement. The 100% CoC members was the Appellant and ICICI Bank was only invitee.

7. We thus are of the view that it was open for the Appellant to sit with the ICICI Bank and resolve as directed by the Adjudicating Authority. The Appellant Bank instead of resolving the issue of the CIRP has been agitating

before the Adjudicating Authority and filed this Appeal for such issue. These issues which are sought to be raised could not be gone into this Appeal. The Adjudicating Authority has rightly refused to grant any relief to the Appellant.

8. We see no reason to entertain this Appeal. The Appeal is dismissed.

**[Justice Ashok Bhushan]  
Chairperson**

**[Mr. Barun Mitra]  
Member (Technical)**

*Basant/nn*