

IN THE NATIONAL COMPANY LAW TRIBUNAL
CUTTACK BENCH
CUTTACK

I.A (IBC) 10/CB/2022
in
C.P (IB) No. 115/CB/2021-2019L

In the matter of:

An application under Section 12A of the Insolvency and Bankruptcy Code, 2016 read with Regulation 30A of the Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) Regulations, 2016, for withdrawal of the application being C.P (IB) No. 115/CTB/2019;

-And-

In the matter of:

1. Santosh Kumar Mishra, Proprietor, (died), M/s Gaja Laxmi Construction;
2. Gangotri Mishra, W/o- Late Santosh Kumar Mishra, aged about 43 years, residing at Plot No. 3650/6776, Palasuni, Bhubaneswar, Khurda, Odisha;
3. Miss Saswatika Mishra, aged about 14 years (Daughter);
4. Master Saswat Mishra, aged about 11 years (Son);
(Petitioner 3 and 4 are minors represented by their mother/natural guardian 2nd petitioner);
(Petitioner 2 to 4 are brought on record as Legal Representatives of deceased first Petitioner Santosh Kumar Mishra as per the order dated 10.08.2021 passed in IA (IB) No. 68/CB/2021);

... Operational Creditor

-Versus-

Baibhav Properties Private Limited, having its registered office at Plot No. 717, BJP Nagar, Bhubaneswar- 751014, Odisha;

Corporate Debtor

-And-

In the matter of:

Surya Kanta Satapathy, son of late Sudersan Satapathy, the Interim Resolution Professional (IRP) of Baibhava Properties Private Limited, having IP registration No. IBBI/IPA-001/IP-P00589/2017/18/11050, address- Chamber No. I-2, MMS

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I.A (IBC) 10/CB/2022
in
CP (IB) No. 115/CB/2021
In re: Gaja Laxmi Construction vs. Baibhav Properties Private Limited

Chambers, 4A, Council House Street, Kolkata- 700001 & Local Address- A-353,
Zica House, Shaeed Nagar, Bhubaneswar, Odisha, PIN- 751007.

... **Applicant**

Coram:

Shri P. Mohan Raj : Member (Judicial)
Shri Satya Ranjan Prasad : Member (Technical)

Appearances (through video conferencing)

For the Petitioner : Mr. Arabinda Acharya, Adv.
Mr. Balram Pandit, IRP

Order reserved on: 10.02.2022

Order pronounced on: 18.02.2022

ORDER

Per: Satya Ranjan Prasad, Member (Technical)

1. The instant application has been filed by the Interim Resolution Professional of Baibhav Properties Private Limited (**Corporate Debtor**) seeking permission for withdrawal of application CP No. (IB) No. 115/CTB/2019, which was earlier filed by the Operational Creditor, Gaja Laxmi Construction for initiation of Corporate Insolvency Resolution Process against the above said Corporate Debtor. The said petition under section 9 of Insolvency and Bankruptcy Code, 2016 was admitted by this Tribunal by an order dated 30.11.2021.
2. It is stated in the instant application that after admission of the petition the interim resolution professional made public announcement in English daily "Business Standard" and Odiya daily "Pratidin." Pursuant to the public announcement, no claim was received and before the formation of COC a settlement has been arrived at on 03.12.2021 between the parties i.e., the Operational creditor and the Corporate Debtor.

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3. The applicant submits that in view of the acceptance of the said settlement proposal by both the parties there remains nothing to be adjudicated. The matter has been amicably settled; therefore, no useful purpose shall be served in keeping the matter alive and that the interests of all the parties concerned would be best protected if the operational creditors are allowed to withdraw the said petition bearing CP (IB) No. 115/CTB /2019.
4. In this application the applicant RP has given the estimated expenses for the resolution process to be ₹ 1,00,000/- as required under Regulation 33 and submitted Bank Guarantee obtained from Bandhan Bank, Chandrasekharapur Branch to the said estimated value. However, In the matter, it is noted that vide Order of this Tribunal dated January 21, 2022 the petitioner was directed to deposit the actual expense of ₹ 69,080/- incurred by the IRP into the account of Corporate Debtor within 3-days as per Regulation 30 A sub-clause 7 of IBC, 2016. The interim resolution professional has submitted compliance of the aforesaid Orders on 24.01.2022 and confirmed that an amount of ₹ 69,080/- has been deposited in the account of Corporate Debtor on 22.01.2022.
5. Considering the factual aspects, it is apparent that the petitioner has complied with all the requirements prescribed under the Regulations. Hence, this Adjudicating Authority is inclined to approve this withdrawal application as provided under Regulation 30A (6).
6. In these circumstances, this withdrawal Application is ALLOWED and in consequence thereof the CIRP initiated against the corporate debtor shall stand terminated.
7. The Board of Directors of the corporate debtor is restored to its original position.

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8. The IRP is hereby directed to hand over the books of accounts to the hands of restored Board of Directors and the IRP is hereby discharged from his responsibilities. The moratorium which came into effect in consequence of the order of admission dated 30.11.2021 shall stand cancelled. The corporate debtor is relieved from the rigors of all the actions imitated in this proceeding.
9. Registry is directed to communicate this order to ROC, Odisha.
10. Registry is directed to return the original Bank Guarantee after retaining the Photo Copy of the same to the petitioner after obtaining proper acknowledgement.
11. Registry is directed to send copy of this order to the parties concerned forthwith.
12. Certified Copy of this order may be issued upon payment of fee, if applied for, upon compliance of all the requisite formalities.

Sd

Satya Ranjan Prasad
Member (Technical)

Sd

P. Mohan Raj
Member (Judicial)

Signed this 18th day of February, 2022.

Ravijeet_P.S.