

IN THE NATIONAL COMPANY LAW TRIBUNAL
BENGALURU BENCH
(through web-based video conferencing platform)

ITEM No.02
I.A. Nos.365 & 373 of 2020,
I.A. Nos.355 & 379 of 2021 &
I.A. Nos.13, 20 & 21 of 2022 in
C.P. (IB) No.157/BB/2019

IN THE MATTER OF:

M/s. Meditek Systems	...	Petitioner
v.		
M/s. Panacea Hospitals Pvt. Ltd.	...	Respondent

Order under Section 9 of Insolvency & Bankruptcy Code, 2016

Order delivered on 31.01.2022

CORAM:

SH. AJAY KUMAR VATSAVAYI
HON'BLE MEMBER (JUDICIAL)

SH. MANOJ KUMAR DUBEY
HON'BLE MEMBER (TECHNICAL)

PRESENT:

For the Applicant in I.A. Nos.
373 & 365 of 2020, I.A. Nos.
379 & 355 of 2021, I.A. No.
13 of 2022/Respondent in
I.A. Nos. 20 & 21 of 2022/
Resolution Professional : Shri K.N. Ravindra

For the Applicant in I.A. Nos.
20 & 21 of 2022 : Proxy Counsel for
Shri D.R. Ravi Shankar (Sr. Counsel)

For the CoC : Ms. Chithra Nirmala

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ORDER**I.A. Nos.20 & 21 of 2022**

1. Heard the Proxy Counsel for Shri D.R. Ravi Shankar, learned Senior Counsel for the Applicants and Shri K.N. Ravindra, learned Resolution Professional/Respondent No.2.
2. These Applications have been filed by Ms. S.D. Jayamma & Shri Manu L. under Rules 11 and 32 of the NCLT Rules, 2016, r/w Section 151 of the Code of Civil Procedure, 1908 seeking to take note of the orders passed by the Hon'ble High Court of Karnataka in W.P. No.3729/2021 and also the order of the Hon'ble Supreme Court in SLP No.7994-7995/2021 in enabling the exclusion of the said property from purview of any proceedings including the resolution plan in the aforesaid proceedings.
3. The Hon'ble Supreme Court of India had granted four months' time to the Resolution Professional of M/s. Panacea Hospitals Pvt. Ltd. to remove the medical equipment and hand over possession of the property.
4. In the circumstances, both the Applications are disposed of and the orders of Hon'ble High Court of Karnataka and Hon'ble Supreme Court of India are taken on record.
5. Accordingly, I.A. Nos.20 & 21 of 2022 are disposed of.

I.A. No.373 of 2020

1. Heard Shri K.N. Ravindra, learned Resolution Professional/Applicant.
2. This Application has been filed by Shri K.N. Ravindra, Resolution Professional of M/s. Panacea Hospitals Pvt. Ltd. under Section 30(6) & 31 of the IBC, 2016, r/w Regulation No.39(4) of CIRP Regulations, 2016 seeking for approval of the resolution plan submitted by M/s. Aananya Institute of Medical Sciences and Research Pvt. Ltd. jointly with Mr. Lakshminarayana.
3. When this I.A. is taken up for hearing, the Resolution Professional has submitted that after the CoC approved the resolution plan of the Resolution Applicant, the instant I.A. had been filed before this Adjudicating Authority. The Hon'ble Supreme Court in SLP No.7994-7995/2021 vide order dated 20.10.2021 has granted a period of four months' time to the Resolution Professional of M/s. Panacea Hospitals Pvt. Ltd. to remove the medical equipment from the leased buildings. In view of this order, the Resolution Applicant has expressed its inability to implement the plan and thereupon the CoC in its 18th meeting held on 06.11.2021 resolved for liquidation of the Corporate Debtor with the required percentage of the voting share. The Resolution Professional further submits that in view of the same, he filed another Application

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bearing I.A. No.355 of 2021 seeking for passing of the liquidation order against the Corporate Debtor, and accordingly, submits that he is not pressing the instant I.A.

4. Accordingly, I.A. No.373 of 2020 is dismissed as not pressed.

I.A. No.355 of 2021

1. Heard Shri K.N. Ravindra, learned Resolution Professional/Applicant.
2. This Application has been filed by Shri K.N. Revindra, Resolution Professional of M/s. Panacea Hospitals Pvt. Ltd. under Section 33(2), r/w Section 60(5)(C) of the IBC, 2016, r/w Rule 11 of the NCLT Rules 2016 seeking the following reliefs:
 - a. To pass an order for liquidation of the Corporate Debtor, i.e., M/s. Panacea Hospitals Pvt. Ltd. since the resolution plan earlier approved by the CoC and submitted to Adjudicating Authority on 10.09.2020 vide I.A. No.373 of 2020 has become unimplementable;
 - b. To appoint Smt. Ramanathan Bhuvaneshwari as the Liquidator of the Corporate Debtor etc.
3. It is submitted that the CoC has approved the resolution plan duly submitted by M/s. Aananya Institute of Medical Sciences and Research Pvt. Ltd. jointly with Mr. Lakshminarayana and accordingly I.A. No.373 of 2020 had been filed seeking approval of the said plan by this Adjudicating Authority. Thereafter, the Hon'ble Supreme Court in SLP No.7994-7995/2021 vide order dated 20.10.2021 granted a period of four months to the Resolution Professional of M/s. Panacea Hospitals Pvt. Ltd. to remove the medical equipment from the leased buildings and in view of the same the Resolution Applicant expressed his inability to implement the Resolution Plan. Accordingly, the CoC having agreed with the said submission, in its 18th meeting held on 06.11.2021 resolved to seek liquidation of the Corporate Debtor with the required percentage of the voting share. A copy the said Resolution is filed as Annexure 9 to the instant Application.
4. The Applicant/Resolution Professional further submits that I.A. No.373 of 2020 which was earlier filed for seeking approval of resolution plan was within the time. Since the said Application is disposed of today only, the instant Application i.e. I.A. No.355 of 2021 being the continuation of I.A. No.373 of 2020 and filed in view of the orders of the Hon'ble Supreme Court of India in the peculiar facts, may be considered as if the same was filed within time, or alternatively extend the period of CIRP till the date of filing of the instant I.A. and accordingly order under Section 33(2) of the IBC, 2016 may be passed.

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5. In the circumstances and in view of the order of Hon'ble Supreme Court and in view of the peculiar circumstances of the case, we extend the period of CIRP till the date of filing of the instant I.A. and treat the instant Application is filed within the maximum period of CIRP.
6. **Smt. Ramanathan Bhuvaneshwari**, Insolvency Professional, bearing Registration No. **IBBI/IPA-002/IP-N00306/2017-18/10864** is proposed as the Liquidator. Smt. Ramanathan Bhuvaneshwari has filed written Consent on 06.11.2021, by inter alia declaring that no disciplinary proceedings are pending against her with the Board or the Insolvency Professional Agency ICSI-IIP. The Law Research Associate of this Adjudicating Authority has checked the credentials of Smt. Ramanathan Bhuvaneshwari and there is nothing adverse against her. Therefore, Smt. Ramanathan Bhuvaneshwari is appointed as Liquidator.
7. In view of the satisfaction of the conditions provided under Section 33 (2) of the Code, the Corporate Debtor **M/s. Panacea Hospitals Pvt. Ltd.** is directed to be liquidated in the manner as laid down in Chapter III of the Code. Some of the directions are noted as under:
 - a. That as per Section 33 (5) of the Code and subject to Section 52 of the code, no suit or other legal proceedings shall be instituted against the Corporate Debtor;
Provided that a suit or other legal proceedings may be instituted by the Liquidator on behalf of the Corporate Debtor, with the prior approval of the Adjudicating Authority;
 - b. That the provisions of sub-section (5) of Section 33 of the Code shall not apply to legal proceedings in relation to such transactions as may be notified by the Central Government in consultation with any financial sector regulator; and
 - c. That this order of liquidation under Section 33 of the Code shall be deemed to be a notice of discharge to the officers, employees and workmen of the Corporate Debtor, except when the business of the Corporate Debtor is continued during the liquidation process by the Liquidator; and
 - d. That all the powers of the Board of Directors, key managerial personnel and the partners of the Corporate Debtor, as the case may be, shall cease to have effect and shall be vested in the Liquidator; and
 - e. That the personnel of the Corporate Debtor shall extend all assistance and cooperation to the Liquidator as may be required by him in managing the affairs of the Corporate Debtor and provision of Section 19 of the Code shall apply in relation to voluntary liquidation process as they apply in relation to liquidation process

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with the substitution of references to the liquidator for references to the Interim Resolution Professional.

- f. That the Liquidator shall publish public announcement in accordance with Regulation 12 of the Insolvency and Bankruptcy Board of India (Liquidation Process) Regulations 2016 and in Form B of Schedule II of these Regulations within five days from receipt of this order calling upon the stake holders to submit their claims as on liquidation commencement date and provide the last date for submission of claim which shall be 30 days from the liquidation commencement date.
 - g. That the announcement shall be published in accordance with Regulation 12(3) of the Insolvency and Bankruptcy Board of India (Liquidation Process) Regulation 2016.
 - h. That in accordance with Regulation 13 of the Insolvency and Bankruptcy Board of India (Liquidation Process), Regulations, 2016, the 'Liquidator' shall file his preliminary report within 75 days and to file regular progress reports as per Regulation 15 every fortnightly thereafter.
8. Thus **I.A No. 355 of 2021** stands disposed of.
 9. Copy of this order be supplied to the Counsel for the R.P. as well as to the Registrar of Companies, Bengaluru forthwith. The Registry is also directed to send a copy of this order to the Liquidator at her e-mail address.

I.A. No.13 of 2022

1. Heard Shri K.N. Ravindra, learned Resolution Professional/Applicant.
2. Issue notice to the Respondents. Registry is directed to prepare the notice and Counsel for the Applicant is permitted to collect the notice and serve it personally on the Respondents along with Application and other material papers through e-mail as well as by speed post and is directed to file affidavit of service in the Registry within three weeks.
3. A period of two weeks for filing Reply from the date of receipt of a copy of the notice and one week for filing rejoinder, if any, thereto from the date of receipt of a copy of Reply is granted.
4. List the I.A. on **30.03.2022.**

I.A. No.365 of 2020

1. Heard Shri K.N. Ravindra, learned Resolution Professional/Applicant and Shri S Vivekananda, learned Counsel for Respondent Nos.8 & 9.
2. In pursuance of the order dated 23.11.2021, the Applicant/RP has taken out the paper publication of notice on those respondents for whom notice

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could not be served through speed post and accordingly, has filed the compliance affidavit vide diary no. 3428 dated 07.12.2021 duly enclosing the paper clippings and the same is taken on record.

3. Shri S Vivekananda, learned Counsel appearing for Respondent Nos.8 & 9 submits that they have filed a common Statement of Objections vide diary No.1080 dated 26.03.2021 and the same is taken on record. The RP submits that he has already filed a rejoinder to the said Statement of Objections and the same is taken on record. The right of the filing of reply of all other Respondents who have not yet filed their replies stand forfeited in terms of the order dated 23.11.2021.
4. List the I.A. for hearing on **30.03.2022**.

I.A. No.379 of 2021

1. Heard Shri K.N. Ravindra, learned Resolution Professional/Applicant.
2. This Application has been filed by Shri K.N. Ravindra, Resolution Professional of M/s. Panacea Hospitals Pvt. Ltd. under Sections 19(2) & 60(5) of the IBC, 2016, r/w Rules 11 & 32 of the NCLT Rules 2016 seeking the following reliefs:
 - a. To direct M/s. State Bank of India i.e., Respondent No.1 and Bank of India i.e., Respondent No.2 to provide Interim Finance to meet the actual expenses for shifting of the hospital equipment from building No.333 & 334 to building No.335, including rent and associated expenditure payable to the building owner no.335 in the ratio of their admitted claims of Secured Financial Creditors i.e. 81 % and 19 % respectively.
 - b. To direct Dr. C. Jayanna, the MD of M/s. Panacea Hospitals Pvt. Ltd., i.e., Respondent No.3 to supervise shifting of the equipment etc.
3. When this I.A. is taken up for hearing, learned Resolution Professional/Applicant submits that he is not pressing the Instant Application in view of the orders passed in other I.A.s today. In the circumstances, the instant I.A. is dismissed as not pressed.
4. Accordingly, I.A. No.379 of 2021 is disposed of.

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(MANOJ KUMAR DUBEY)
MEMBER (TECHNICAL)

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(AJAY KUMAR VATSAVAYI)
MEMBER (JUDICIAL)