



**NATIONAL COMPANY LAW TRIBUNAL**  
**COURT-I, MUMBAI BENCH**

**Item 23**

**C.P. (IB)/449(MB)2019 IA 1557/2020 IA 2476/2020 IA 1892/2020 IA**  
**2448/2020 IA 1697/2023**

CORAM:

**SH. PRABHAT KUMAR**  
**HON'BLE MEMBER (T)**

**JUSTICE SH. VIRENDRASINGH BISHT(Retd.)**  
**HON'BLE MEMBER(J)**

ORDER SHEET OF THE HEARING ON **29.08.2023**

NAME OF THE PARTIES: - **SONKAMAL ENTERPRISES PRIVATE LIMITED**  
**V/S RATNAGIRI CHEMICALS PRIVATE**  
**LIMITED**

Section 60(5), 9 of the IBC, 2016

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**ORDER**


Adv. Dhara Modi i/b Singhania Legal Services appeared for the Applicant in IA No. 1697/2023.

Adv. Durgaprasad i/b Hema Desai appeared for the Applicant in IA Nos. 2476/2020, 1892/2020, 2448/2020 and for Respondent/Resolution Professional in IA No. 1697/2023.

**IA No. 2476/2020**

1. The present Interlocutory Application is filed by Mr. Durgesh Kumar Kabra, Interim Resolution Professional under Sections 33, 34 & 35 r/w 60(5) of the Insolvency and Bankruptcy Code, 2016 seeking initiation of liquidation process of the Corporate Debtor.
2. Vide order dated 20.02.2020 the present petition is admitted declaring moratorium under Section 14 of the Insolvency and Bankruptcy Code, 2016 and Mr. Durgesh Kumar Kabra, the Applicant was appointed as Interim Resolution Professional.
3. Ld. Counsel appearing for the Applicant submits public announcement under Form A was made on 27.02.2020 which was published on 28.02.2020 in Financial Express in English and Mumbai Lakshadeep in Marathi (Mumbai) editions. The last for submission of claim was 11.03.2020.

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4. The Applicant submits that Applicant is duty bound under provisions of the Insolvency and Bankruptcy Code, 2016 to conduct resolution process of the Corporate Debtor in time bound manner.
  5. Ld. Counsel for the Applicant submits that Applicant is required to take control of the assets and management of the Corporate Debtor. However, there is absolutely no co-operation from the suspended directors or the auditors of the Corporate Debtor in these regards.
  6. Ld. Counsel for the Applicant further states that Applicant's team visited the Registered office of the Corporate Debtor at the address as mentioned on the Ministry of Corporate Affairs website, which is a rented premise. On visit Applicant was informed that the Corporate Debtor has no business operations and accordingly the rented office has been shut since past few months. It was observed that limited documents and information of the Corporate Debtor was available at the registered office. Further, tally backup of the Corporate Debtor was not available at the registered office.
  7. Ld. Counsel for the Applicant submits that the factory along with the plant and Machinery of the Corporate Debtor was sold by Punjab National Bank on 01.01.2020 (i.e. before commencement of the Corporate Insolvency Resolution Process) to one M/s. Privi Organics Ltd., and all the documents of the Corporate Debtor are still lying in the factory situated at Plot No. C-39, MIDC Lote – Parshuram Industrial Area, Khed, Ratnagiri, Maharashtra.
  8. Ld. Counsel for the Applicant further submits that audited financial statements of the Corporate Debtor are available till 31.03.2016 only. It is further submitted that only limited historical information are provided by the Member of Suspended Board.
  9. It is further submitted that in the first Committee of Creditors meeting held on 26.03.2020 the CoC decided to appoint Mr. Girdharlal Chitlangia as Resolution Professional, and an application filed seeking confirmation of the adjudicating authority is still pending. Accordingly, the applicant is continuing as IRP.
  10. The Applicant further states that the second meeting of Committee of Creditors was held on 12.11.2020. In that meeting the resolution for further course of action is by way of Liquidation of Corporate Debtor was put for



voting through vote of hands and verbal communication. Whereby, resolution received 76.54% votes in favour and accordingly the resolution was approved and passed with requisite majority as required u/s 33(2) of the IB Code. The other CoC member comprising balance 23.46% votes did not attend the meeting in spite of receipt of notice of the hearing.

11. It is further submitted that in the second meeting of the CoC held on 12.11.2020, Applicant has expressed his intention not to be appointed as a Liquidator. Accordingly, the CoC has passed the resolution so as to request this Bench to pass order for appointment of the Liquidator.
12. Considering, totality of the circumstances this Bench is of the view that there is no alternative except to pass that the Corporate Debtor to be liquidated.
13. Therefore, we hereby appoint Mr. Dushyant C Dave, having IBBI Registration No. IBBI/IPA-003/IP-N00061/2017-18/10502 as the Liquidator of the Corporate Debtor Ratnagiri chemicals Pvt. Ltd.
14. This order for liquidation shall 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.
15. The fees payable to the Liquidator shall be in accordance with Regulation 4 of the IBBI (Liquidation Process) Regulations, 2016.
16. The Liquidator shall submit progress reports as per Regulation 15 of the IBBI (Liquidation Process) Regulations, 2016.
17. The Liquidator is hereby Authorized to represent the Corporate Debtor before the Government Authorities, if need be.
18. With the aforesaid observations, IA No. 2476/2020 U/s. 33 (1) (a) stands disposed of as Allowed. IA Nos. 1557/2020, 1892/2020 is rendered infructuous in view of Liquidation Order passed in IA No. 2476/2020.
19. Order Accordingly.



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**IA No. 1697/2023** – This is an application filed by Privi Organics Limited to seek release the wrongful attachment of the subject unit i.e. Plot No. C-39 and C-39(Part) MIDC Lote- Parshuram Industrial Area, and appropriate direction thereby excluding the property belonging to the Applicant from the scope and ambit of the list of the asset or properties of the Corporate Debtor and from the Corporate Insolvency Resolution Process.

The applicant has submitted that it had purchased the said property in an auction conducted at the behest of Punjab National Bank, and a sale certificate was issued upon conclusion of auction sale on 01.01.2020. The CIRP in the case of Corporate Debtor commenced on 20.02.2020. Accordingly, this property belonged to the applicant and the Corporate Debtor had neither the ownership nor the possession/control over the said property.

On the perusal of deed of sale under certificate of sale executed by Punjab National Bank on 05.02.2021, this bench finds that the date of sale certificate as 01.01.2020 and date of possession is stated as 09.01.2020. This certificate of sale issued was registered by Registrar-II region Khed on 05.02.2021.

In view of certificate of sale, evidencing conclusion of sale, having been issued prior to commencement of CIRP, this bench is of the considered view that the Corporate Debtor has no ownership as well as the possession on the date of commencement of CIRP. Accordingly, the IRP/RP/Liquidator, as the case may be, is directed to exclude the said property from the assets of the Corporate Debtor, and to release any attachment over that property if any, placed by IRP/RP/Liquidator.

IA No. 1697/2023 is **disposed of** with the aforesaid directions.

**IA No. 2448/2020** – Respondents are directed to file their reply within two weeks by serving advance copy to the Applicant. Failing which matter will be heard on the basis of material available on record.

List this matter on **27.09.2023** for hearing/further consideration.

Sd/-

**PRABHAT KUMAR**  
**Member (Technical)**

Sd/-

**JUSTICE VIRENDRASINGH BISHT**  
**Member (Judicial)**