

IN THE NATIONAL COMPANY LAW TRIBUNAL
NEW DELHI, COURT - II

Item No. 105
(IB)-575(ND)/2017
IA-3710/2021, IA-3753/2021

IN THE MATTER OF:

**Small Industrial Development
Bank of India**

...

Applicant/Petitioner

Versus

**Delicious Coco Water Private ...
Limited**

Respondent

Under Section: 7 of IBC, 2016

Order delivered on 26.08.2021

CORAM:

**SHRI. ABNI RANJAN KUMAR SINHA
HON'BLE MEMBER (J)**

**SHRI L.N. GUPTA,
HON'BLE MEMBER (T)**

PRESENT:

GARIMA SHARMA ADVOCATE FOR APPLICANT

ORDER

IA -3710/2021- By filing this application, the applicant has prayed for the following relief:-

- " a. That this Hon'ble Tribunal be pleased to take the additional documents annexed along with this application and averments made in para 4 on record for the purposes of adjudication upon the I.A. No. 412/2021."

Heard the Ld. Counsel appearing for the Applicant and perused the averments made in the application. The Ld. Counsel for the Applicant submits that the Applicant has enclosed some documents with this application and seeks permission to place these documents on the record of the IA 412/2021, which has already been heard and reserved for orders on 6th August 2021.



(Sapna)



Considering the submissions, since the matter has already been heard and reserved for orders, we are not inclined to permit the Applicant to bring the additional documents on record.

Accordingly, the prayer of the Applicant is hereby rejected **and the IA is Dismissed.**

IA-3753/2021- By filing this application under Rule 11 of NCLT Rules read with Section 425 of the Companies Act, the Applicant has prayed for the following reliefs:-

- “ 1. Pass an order initiating contempt proceedings against the liquidator for wrongfully notifying e-auction dated 03.09.2021 for sale of assets of corporate debtor and thereby acting contrary to the directions of this Hon'ble Tribunal passed in the stay order dated 15.02.2021; and/or
2. Pass an order directing the Liquidator to immediately call off/ hold the auction dated 03.09.2021 till the pronouncement of the order by this Hon'ble Tribunal in I.A. 412/2021.”

Heard the Ld. Counsel appearing for the Applicant and perused the averments made in the application. The Ld. Counsel appearing for the Applicant has referred to the Order dated 15th February 2021 passed in IA-412/2021, which is placed at page 12 of the application and submitted that vide this order, the Liquidator was restrained to proceed with the auction. She further submits that even then, the Liquidator has proceeded with the auction, which is scheduled on 3rd September 2021. She further submits that it is the disobedience of the order of this Adjudicating Authority for which contempt proceedings may be initiated against the Respondent/Liquidator. She further submitted that in the said IA-412/2021 after hearing the order was reserved on 6th August 2021.

She further submits that the Liquidator may be directed to call off/hold the auction dated 3rd September 2021 till the pronouncement of the order by this Bench in IA-412/2021.

(Sapna)



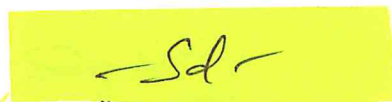
Considering the submissions and on perusal of the Order dated 15th February 2021, we notice that the Liquidator was restrained to proceed with the auction till the next date of hearing and the next date of hearing was fixed on 22nd February 2021. We further notice that the Applicant has not enclosed the Order dated 22nd February 2021 to show that the interim order shall continue till the next date of hearing. We further find that the said IA has already been heard and the order was reserved on 6th August 2021. On perusal of the order dated 6th August 2021, it is seen that no further stay was granted. So, considering this, we are of the considered view that there is no disobedience of the order by the Liquidator for which contempt proceedings be initiated. So, under such circumstances, we have no option but to reject this prayer of the Applicant.

Accordingly, we hereby reject this prayer of the Applicant.

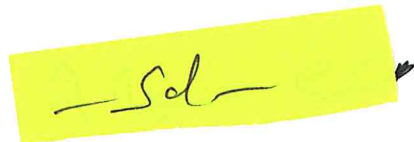
So far as, the second prayer of the Applicant is concerned, since the main prayer of the Applicant is to initiate the contempt proceedings and the present application is filed under Section 425 of the Companies Act read with Rule 11 of the NCLT Rules, we are not inclined to pass any stay or allow the second prayer of the Applicant.

Accordingly, this prayer of the Applicant is also hereby Rejected.

The IA is Dismissed.



**(L. N. GUPTA)
MEMBER (T)**



**(ABNI RANJAN KUMAR SINHA)
MEMBER (J)**