

**IN THE NATIONAL COMPANY LAW TRIBUNAL  
MUMBAI BENCH-IV**

IA-1702/2023

IA-1545/2023

IA-1717/2023

IN

CP (IB) No.1443/MB-IV/2020

*In the matter of*

**IA-1717/2023**

**Satish Kumar Gupta**

... Applicant/Resolution Professional

V/s.

**Neelakanta Naidu & Anr.**

...Respondents

AND

*In the matter of*

**IA-1545/2023**

**Satish Kumar Gupta**

... Applicant

V/s.

**Neelakanta Naidu & Anr.**

...Respondents

AND

*In the matter of*

**IA-1702/2023**

**M. Neelakanta Naidu**

... Applicant

V/s.

**Bombay Rayon Fashions Limited & Anr.**

...Respondents

**IN**

**CP (IB) No.1443/MB-IV/2020**

Under Section 60(5) of the IBC, 2016

*In the matter of*

**Vikash Parasampuria**

...Operational Creditor

V/s.

**Bombay Rayon Fashions Limited**

...Corporate Debtor

Order Pronounced on: **09.06.2023**

***Coram:***

Mr. Prabhat Kumar  
Hon'ble Member (Technical)

Mr. Kishore Vemulapalli  
Hon'ble Member (Judicial)

*Appearances (via videoconferencing):*

For the Applicant/RP:

Mr. Ayush Rajani, Ld. Authorized  
Representative.

For the Corporate Debtor/Respondent:

Mr. Ameya Ranade a/w Neha  
Chaudhari and Purva Kshatriya,  
advocates.

**ORDER**

***Per: Prabhat Kumar, Technical (Member)***

1. **IA-545/2023** is filed by Mr. Satish Kumar Gupta, the Resolution Professional of Bombay Rayon Fashions Limited ("Corporate Debtor") seeking direction to Mr. M. Neelakanta Naidu ("Respondent No.1") to file an appropriate interlocutory application in original suit no. 295/2020 (titled Sri. M. Neelakanta Naidu V. M/s. Bombay Rayon Fashions Limited &

Anr.) pending before the Ld. Principal Senior Civil Judge at Ramanagara, Karnataka to vacate the order dated 16.09.2022 pass therein and dismiss Respondent No. 1's IA filed in company petition no. 1443/2020. which yet to be numbered.

2. **IA-1702/2023** is filed by Mr. M. Neelakanta Naidu seeking directions to M/s Bombay Rayon Fashions Limited, the Corporate Debtor, and JM Financial Assets Reconstruction Company Limited, the Financial Creditor to complete the sale in respect of all piece and parcel of land standing thereon of area admeasuring 20,392 sq. meters bearing Survey No. 133 (p) and 135 (P) situated at Village:- Abbanakuppe, Bidadi Industrial Area, District :- Ramanagara, Bangalore alongwith structures standing thereon and machineries (referred as" the said property" hereinafter).
3. **IA-1717/2023** is filed by Mr. Satish Kumar Gupta, the Resolution Professional of Bombay Rayon Fashions Limited ("Corporate Debtor") seeking permission to amend prayer in para 13(b) of the applicant's Interlocutory application no. 1545 of 2023 as follows:

*"b. pass an order, as the Hon'ble Tribunal may deem necessary, to allow sale of the property bearing Plot No. 274 in Sy. No. 133 & 135 in the Bidadi Industrial Area located at the village Abbanakuppe, Hobli Bidadi Taluk Ramanagara, Bangalore (ie, the Bidadi Unit) as decided by the financial creditors/Committee of Creditors of the Corporate Debtor to facilitate resolution of the Corporate Debtor: and".*
4. The Corporate Debtor is the owner of the all piece and parcel of land standing thereon of area admeasuring 20,392 sq. meters bearing Survey No. 133 (p) and 135 (P) situated at Village:- Abbanakuppe, Bidadi Industrial

Area, District :- Ramanagara, Bangalore alongwith structures standing thereon and machineries (“the said property”).

5. In 2011 the Corporate Debtor has created a mortgage in favour of Allahabad Bank to obtain credit facilities there from. Pursuant to default committed by the Corporate Debtor Allahabad Bank initiated proceedings u/s 13(2) of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (SARFESI Act).
6. Thereafter on 27.09.2018 Allahabad assigned the said loan, together with the underlying security interest and all rights, titles, and interests therein, to Respondent No.2 (i.e., JM Financial Assets Reconstruction Company Limited) Vide assignment agreement dated 27.09.2018. Pursuant to this Respondent No.2 took over symbolic possession of the said property and thereafter entered into a memorandum of understanding dated 19 August 2019 (MOU) with one Mr. M. Neelakanta Naidu (i.e. Respondent No.1) and the Corporate Debtor, for the sale of the Bidadi Unit by Private treaty. By the said MoU, the Bidadi Unit was proposed to be sold for an aggregate consideration amount of INR 25,00,00,000 (Indian Rupees Twenty-Five Crore Only) (**Sale Consideration**). The clause 4 of the said MOU sets out conditions/compliances which are required to be fulfilled by the Corporate Debtor and clause 13 of the MOU provides for forfeiture of advance payment by Respondent No.2 in case Respondent No. 1 does not make balance payment towards sale consideration.
7. One of the condition in clause 4 of the MOU came to be completed on 13.07.2020 when a sale deed was executed by Karnataka Industrial Area Development Board (the Original Owner of the land in said property and the

Corporate Debtor). As the MoU contemplated conclusion of transaction within 90 days from the date of MOU, which expired on 17.10.2019.

8. Respondent No.1 filed an original suit no. 295/2020 (title Sri. M. Neelakanta Naidu V. M/s. Bombay Rayon Fashions Limited & Anr.) before the Ld. Principal Senior Civil Judge at Ramanagara, Karnataka for a specific performance of the MOU on the part of the Respondent No.2 and Corporate Debtor.
9. In the meantime, the Corporate Debtor was admitted in CIRP on 07.06.2022 and moratorium was declared u/s 14 of the Code.
10. During the CIRP, Respondent No.1 also addressed a letter dated 13 July 2022 to the IRP, the Corporate Debtor and Respondent No.2, expressing his willingness to “complete the sale” of the Bidadi Unit. Respondent No.1 stated that he would pay the balance consideration within fifteen days of receiving the intimation of the fulfilment of the conditions mentioned in Clause 4 of the MoU. By the said letter, Respondent No.1, *inter alia*, set out certain conditions/compliances under Clauses 4 of the MoU which he alleged were unfulfilled.
11. The Respondent No.1 offered to complete the compliance remaining under clause 4 of the MOU upon payment of expenditure incurred in completing said compliances which was agreed to be deducted from the balance consideration.
12. This bench finds that Respondent No.1 has filed an IA-1702/2023 seeking completion of the sale transaction of the said property, and the applicant in IA-1545/2023 has sought amendment of the prayer in IA-1545/2023 vide

IA-1717/2023 to seek order from this tribunal for allowing sale of said property. Besides this, the Respondent No. 2 submitted before this Bench on 02.05.2023 that they support the application provided the transaction is carried on the same terms and conditions as stated in the MoU.

13. This bench finds that the Resolution Professional acting on behalf of the Corporate Debtor, who is owner of the said property; the Respondent No.1, who is the buyer of the said property; and the Respondent No.2 who is holding security interest in the said property are all agreed to conclude the sale transaction contemplated MOU dated 19.08.2019 on that terms and conditions contained therein. Accordingly, this bench allows the applicant to proceed to conclude the sale transaction of the said property and to do all necessary acts in relation thereto.
14. The bench directs the respondent no.1 to withdraw the Original Suit no. 295/2020 upon conclusion of aforesaid sale transaction in his favour and till such time, pray before the court to keep the said suit pending.
15. In view of above, IA-1545/2023 read with IA-1717/2023 and IA-1702/2023 are **allowed** and **disposed** of accordingly.

Sd/-

**PRABHAT KUMAR**  
**MEMBER (TECHNICAL)**  
**09.06.2023.**

Sd/-

**KISHORE VEMULAPALLI**  
**MEMBER (JUDICIAL)**