

IN THE NATIONAL COMPANY LAW TRIBUNAL

KOCHI BENCH

IA (IBC)/104/KOB/2024

IN

CP (IBC)/21/KOB/2023

(Under Section 60(5) of the Insolvency and Bankruptcy Code, 2016 read with Rule 11 of NCLT, 2016)

Memo of Parties

CENTRAL BANK OF INDIA

Asset Recovery Branch,
3rd Floor, 346, Standard Building,
D.N Road, Fort, Mumbai - 400001

...Applicant

Versus

1. RAMAKRISHNAN SADASIVAN

Interim Resolution Professional,
Jupiter Leys Private Limited,
Old No.22, New No. 28, Menod Street,
Purasawalkam, Chennai- 600007

2. THE IDBI BANK LIMITED

IDBI Tower, WTC Complex, Cuffe Parade,
Mumbai, Maharashtra- 400005

...Respondents

In the matter of:

The IDBI Bank Limited : Financial Creditor

Versus

M/s Jupiter Leys Private : Corporate Debtor
Limited

Order delivered on: 18.04.2024

Coram:

Hon'ble Member (Technical)

Hon'ble Member (Judicial)

Shri. Shyam Babu Gautam

TMT. (Retd.) Justice T Krishna Valli

Appearances:

For the Applicant : Mr. P Prashanth, Advocate

For the Respondent No 1 : Mr. Ramakrishnan Sadasivan, IRP

For the Respondent No 2 : Mr. Akhil Suresh, Advocate

ORDER

Per Coram

1. The present application is filed by the Central Bank of India, one of the Financial Creditors of M/s Jupiter Leys Private Limited, the Corporate Debtor herein, directing the 2nd Respondent to affirm the resolution in the 3rd CoC for appointing Mr V Duraisamy, as the Resolution Professional of the Corporate Debtor.
2. This Tribunal vide order dated 22.12.2023 in CP(IBC)/21/KOB/2023 admitted the Corporate Debtor into CIRP and the 1st Respondent was appointed as the Interim Resolution Professional. Thereafter CoC was constituted with the Applicant and 2nd Respondent herein. The Applicant was given the vote share of 59.36% and the 2nd Respondent was given the vote share of 40.64%.
3. However, the Applicant was categorized as an Unsecured Financial Creditor stating that debts of the Applicant were secured by an

immovable asset of the Corporate Debtor but the said asset was sold by the Applicant under SARFAESI Act and realisations were made, the balance outstanding dues become unsecured. The Applicant is concerned that their interests may not be safeguarded by the 1st Respondent.

4. During the 2nd CoC meeting, the Applicant suggested Mr. Fanendra H Munot as the Resolution Professional for the Corporate Debtor, but the 2nd Respondent opposed the proposal. Subsequently, the Applicant proposed Mr V Duraisamy for the role, which was also opposed by the 2nd Respondent during the 4th CoC meeting, resulting in its rejection. In the 5th CoC meeting on 12.02.2024, the 2nd Respondent proposed Shri. Ravindra Beleyur as the Resolution Professional for the Corporate Debtor.
5. When the proposal to appoint the 1st Respondent, IRP as the Resolution Professional of the Corporate Debtor was put for voting, the Applicant voted against the said Resolution, consequently said Resolution did not secure 66% votes and was rejected.
6. The 1st Respondent in his reply stated that resolutions were passed for the appointment of 3 other Insolvency Professionals as RP of the Corporate Debtor. However, none of the Resolutions mustered the requisite voting of 66% in its favour. The CoC Members were unable to reach a consensus for selecting a Resolution Professional thus almost 82 days have elapsed since the date of commencement of the CIRP without any progress in the Process. Further added that the 1st

Respondent does not have any objection to getting discharged from his role and appointment of a new Resolution Professional.

7. Respondent No. 2 filed reply stating that the Applicant citing a fractional numerical majority in the CoC intended to appoint a resolution professional who would dance to their tune and not in accordance with the provisions of the Code. The Applicant has chosen to appoint one of their ex-employees i.e. Mr V Duraiswamy who has served services in the Applicant bank for more than 33 years.
8. Further submitted that the secured assets of the Central Bank of India were sold in e-auction before the initiation of the CIRP of the Corporate Debtor. By the issuance of Sale Certificate, the property was discharged from all the encumbrances and the buyer obtained a clean title to the assets acquired. The claim submitted by the Central Bank of India was after adjustment of the sale proceeds from the loan amount outstanding. In the absence of any realizable security interests, the claim submitted by the Central Bank of India was classified as an Unsecured Financial Creditor.
9. Having considered the arguments put forth by the learned counsels and the IRP, it has become evident that there is a disparity of opinions between the Applicant and Respondent No. 2. Furthermore, it is noted that a significant span of 82 days within the CIRP has elapsed without progress due to this lack of cooperation. In light of these circumstances, it is deemed just and appropriate to appoint an independent Resolution Professional from the panel of IBBI maintained by this Tribunal. Accordingly, **Mr Dileep K P (IBBI/IPA-**

001/IP- P01310/2018-2019/12220) having his address at Veluthedath House, Ponnurunni, Vytilla P O, Cochin, Kerala, Pin: 682019 email id kpdileep57@gmail.com is hereby designated as the Resolution Professional for M/s Jupiter Leys Private Limited. The appointed Resolution Professional shall perform the duties as outlined under the provisions of the Code ensuring a diligent and impartial handling of the resolution process.

10. The Resolution Professional is directed to submit his consent to act as the Resolution Professional of M/s Jupiter Leys Private Limited in the prescribed format within 5 days of receipt of this order.
11. The Registry is directed to send e-mail copies of the order forthwith to all the parties, their Learned Counsels, IRP and the newly appointed Resolution Professional for taking necessary steps.
12. Let the certified copy of the order be issued upon compliance with requisite formalities.

SHYAM BABU GAUTAM Digitally signed by SHYAM BABU GAUTAM
Date: 2024.04.18 15:43:08 +05'30'

SHYAM BABU GAUTAM
(MEMBER TECHNICAL)

T.KRISHNAVALLI Digitally signed by
T.KRISHNAVALLI
Date: 2024.04.18 15:42:26 +05'30'

T KRISHNA VALLI
(MEMBER JUDICIAL)

Signed on this the 18th day of April 2024.

Krishna/LRA