



**IN THE NATIONAL COMPANY LAW TRIBUNAL, MUMBAI BENCH
COURT V**

IA. No. 1193 of 2022

IN

C.P.(IB) No. 1031 of 2021

Under Section 7 of the Insolvency and
Bankruptcy Code, 2016 read with Rule 4 of the
Insolvency and Bankruptcy (Application to
Adjudication Authority) Rule 2016)

In the matter of

C & M Farming Limited.

C & M house, N.D. Patel Road,
Nashik-422001

.....Applicant

Vs

**Omkara Assets Reconstructions Private
Limited.**

(CIN:)

C-515, Kanakia Zillion Junction, LBS Marg &
CST Road, BKC, Annexe, Near Equinox,
Kalina, Kurla West, Mumbai-400 070

.....Respondent

And in the matter of:

**Omkara Assets Reconstructions Private
Limited.**

....Financial Creditor

Vs

C & M Farming Limited

....Corporate Debtor

Order pronounced on: 31.03.2023

Coram:

Hon'ble Sh. Kuldip Kumar Kareer, Member (Judicial)

Hon'ble Smt. Anuradha Sanjay Bhatia, Member (Technical)

For the Petitioner: Mr. Mustafa Doctor, Senior Counsel

For the Corporate Debtor: Mr. Ashish Pyasi

Per: Kuldip Kumar Kareer (Judicial)

ORDER

1. The Present Interlocutory Application is filed by C & M Farming Limited (hereinafter referred to as **"the Applicant"**) under Section 60(5) of the Insolvency and Bankruptcy Code, 2016 (hereinafter referred to as **"Code"**) read with Rule 11 of National Company Law Tribunal Rules, 2016 seeking to defer the hearing of the Company Petition till the proceedings before the Civil Judge, Senior Division Nasik is not concluded.
2. It is stated in the Application that the Respondent/Petitioner has filed a Company Petition under Section 7 of the IB Code on 14.09.2021 against the Applicant/Corporate Debtor, the said Application under Section 7 has been filed by the Petitioner in the capacity of Assignee of business Cooperative Bank. The alleged transaction of Assignment of Deeds by Business Co-operative Bank has been challenged by the



Applicant/Corporate Debtor and in this regard a Civil Suit No. 422 of 2022 has been filed before the Court of Civil Judge, Senior Division Nasik which is pending for adjudication. Accordingly, it has been requested till the matter is pending before the Civil Court with regard to the legality of the Assignment Deeds decided by the Court of Civil Judge, Senior Division Nasik, the present Petition under Section 7 may be deferred or kept in abeyance.

3. It is claimed in the Application that Civil Judge, Senior Division Nasik has passed an order dated 31.03.2022 directing the parties to maintain status quo in respect of the Assignment Agreements dated 05.12.2020 and 21.12.2021 which is annexed as Exhibit A with the Application.
4. We have thoughtfully considered the matter and we are of the considered view that on the basis of the fact that a suit challenging the Assignment Deeds in favour of the Petitioners has been filed and also on the basis of the status quo order passed by the learned Civil Judge, (Senior Division) Nasik directing the parties to maintain status quo, the proceedings under Section 7 of the IB Code cannot be halted in definitely. It is well settled that as per the provisions of Section 7 of the IB Code, the matter has to be decided within the time bound manner. The Civil Court may take long time to finally decided the validity of the Assignment Deeds dated 05.12.2020 and 21.12.2021. Therefore, the matter cannot be kept pending in definitely. Even otherwise the hearing of Petition under Section 7 would not in any way violate the order of the learned Civil Judge (Senior Division) Nasik.
5. The Counsel for the Applicant/Corporate Debtor has relied upon a judgment of **Edelweiss Asset Reconstruction Company Limited Vs. Winsoms Yarns Limited (dated 17.03.2020 passed by Hon'ble NCLT Chandigarh in CP (IB) No. 291 of 2018)** whereby the Petition under Section 7 was dismissed on the ground that certain defects in the Assignment Deed. However, in our considered view on the basis of the whatever has been held in the cited judgment or on the basis of



pending of the civil suit whereby the Assignment Deeds have been challenged, the Petition under Section 7 cannot be stayed in definitely nor the law laid down in the cited can also not be applied to the facts and circumstances of the present case. In the cited case, some final orders were passed by the concerned authorities under the Stamp Duty Act with regard to the Assignment Deeds in question whereas it is not so in this case.

6. In the light of the above observations, the matter is **dismissed** for being devoid of merit.

Sd/-
ANURADHA SANJAY BHATIA
MEMBER (TECHNICAL)

Sd/-
KULDIP KUMAR KAREER
MEMBER (JUDICIAL)