

IN THE NATIONAL COMPANY LAW TRIBUNAL: NEW DELHI
PRINCIPAL BENCH

ITEM No. 106
IA-2123(PB)/2020

IN THE MATTER OF:

Mr. Prabhakar Nandiraju, Resolution Professional
Chairman of the Monitoring Committee of the Kalpatru
Steel Rolling Mills Pvt. Ltd. (the company under resolution)

.... Applicant

v.

Andhra Pradesh State Financial Corporation

.... Respondent

&

(IB)-563(PB)/2018

IN THE MATTER OF:

Andhra Bank

.... Applicant/petitioner

Vs.

M/s. Kalpataru Steel Rolling Mills. Ltd.

.... Respondent

Order under Section 7 of Insolvency & Bankruptcy Code, 2016 (CIRP)

Order delivered on 19.11.2020

CORAM:

SH. B.S.V. PRAKASH KUMAR
HON'BLE ACTG. PRESIDENT

SH. HEMANT KUMAR SARANGI
HON'BLE MEMBER (TECHNICAL)

PRESENT:

For the applicant

Mr. Anoop Prakash Awasthi, Adv.

ORDER

B.S.V. PRAKASH KUMAR, ACTG. PRESIDENT

DICATED IN OPEN COURT

IA-2123(PB)/2020:-

It is an application filed by the successful Resolution Applicant (SRA) seeking the reliefs as follows:

- "a. Record compliance of the implementation of the approved Resolution Plan (approved vide order dated 14.02.2020) of the Corporate Debtor M/s Kalpatru Steel Rolling Mills Ltd. by the Resolution applicant M/s. Shiva Ferric Pvt. Ltd.



b. Issue directions to the respondent Andhra Pradesh State Financial Corporation (APSFC) for releasing the following original title deeds of the property mortgaged with M/s. APSFC by the Corporate Debtor Kalpatru Steel Rolling Mills Ltd. i.e. the Secured Financial Creditor being 'All that Plot Nos. 55 & 56 admeasuring 47839.60 sq. yards together with building and sheds in survey no. 92, 94 & 95 situated at Growth Centre, Thumkunta village, Hindupur Mandal, Anantpur District of Andhra Pradesh State. Bounded by North-18.18 meters wide Road, South-Plot No. 57, East-Plot No. 51 & 52, West-18.18 meters wide Road.

c. pass such order or furthers as may be deemed just and fit under the circumstances of the case.”

The gist of the application is, the answering respondent/dissenting financial creditor has failed to release title deed of the corporate debtor lying in its possession, despite the contention of the answering respondent was rejected while approving the Resolution Plan.

As against this application, the answering respondent/Andhra Pradesh State Financial Corporation has stated that it has filed an appeal against the approval of the Resolution Plan before the Hon'ble NCLAT taking various grounds, but whereas the Hon'ble NCLAT so far not granted any stay in the appeal filed by this Respondent. The counsel appearing on behalf of the Respondent requested this Bench to read its reply as its submissions.

On perusal of the reply, it appears that the Respondent has re-agitated the points already canvassed at the time of hearing on approval of resolution plan and apart from this; it has also mentioned



that the Andhra Bank claim was time barred as on the date petition was admitted.

The Company Petition filed by the Andhra Bank was long before admitted i.e., on 14.08.2018. No appeal was filed by this dissenting Financial Creditor over the admission.

Subsequently, when the Resolution Plan came up for approval before this Bench, this dissenting Financial Creditor raised an objection stating that distribution of the plan value is not proportionate to the assets mortgaged by the Corporate Debtor to this dissenting Financial Creditor, therefore this Respondent is not getting the value proportionate to the assets mortgaged to it, on that reason, the Respondent has sought for dismissal of the resolution plan. This Bench discussed the points canvassed by the Respondent and rejected its contentions and then approved the resolution plan; we therefore believe that this Bench need not revisit those points.

Now the point left to be decided is, in pursuance of the approval of the resolution plan, whether or not the title deeds of the Corporate Debtor lying in the possession of the Respondent shall be released by the dissenting Financial Creditor.

To allow this application, the point for consideration is, whether or not SRA complied with the resolution plan terms and conditions and whether or not SRA deposited the amount payable to this dissenting Financial Creditor.

As to this point, SRA has categorically mentioned the amount payable to this dissenting Financial Creditor was already deposited in the account of the Andhra Pradesh State Financial Corporation.

Of course, the financial institution has also stated that SRA has deposited the money without their consent; therefore the respondent put it in a Fixed Deposit as the appeal is pending before the Hon'ble NCLAT.

To allow this application it does not matter whether or not the Respondent has accepted the money, the material point is, whether or not SRA has deposited the money as stated in the plan.

For the same has been complied with, for there being no stay pending against the approval of the resolution plan, this Respondent ought to have released the document of the property of the Corporate Debtor as stated in the resolution plan. That has not been complied with.

However, now the Respondent Counsel says that the Respondent has filed SLP challenging the admission subsequent to the approval of the resolution plan on the ground the claim against which petition admitted is time barred debt, wherein, the Hon'ble Supreme Court of India has not passed any order.

For SRA has complied with terms and conditions of the plan approved by this Bench, we hereby direct this Respondent to release the Title Deeds mentioned in the relief portion within 15 days hereof.

Accordingly, this application is hereby **allowed**.



(B.S.V PRAKASH KUMAR)
ACTG. PRESIDENT



(HEMANT KUMAR SARANGI)
MEMBER (TECHNICAL)