



**IN THE NATIONAL COMPANY LAW TRIBUNAL
PRINCIPAL BENCH, NEW DELHI**

IA/497/2022

In

CP (IB) – 939 (PB)/2018

**(ORDER UNDER SECTION 60(5) OF THE
INSOLVENCY AND BANKRUPTCY CODE, 2016)**

IN THE MATTER OF:

M/s. OREINTAL BANK OF COMMERCE *Financial Creditor*

Versus

M/s. SIKKA PAPERS LIMITED. & ORS. *Corporate Debtor*

IN THE MATTER OF:

AJIT KUMAR

RESOLUTION PROFESSIONAL
FOR SIKKA PAPERS LIMITED
83 NATIONAL MEDIA CENTRE,
GURUGRAM, HARYANA-122011

... .. *Applicant*

Versus

MARUTI PAPERS LIMITED

8th KM STONE VILLAGE,
SHAMLI, UTTAR PRADESH- 247776

... .. *Respondent*

ORDER DELIVERED ON: 11.04.2023

CORAM:

**JUSTICE RAMALINGAM SUDHAKAR
HON'BLE PRESIDENT**

**SHRI AVINASH K. SRIVASTAVA
HON'BLE MEMBER (TECHNICAL)**

APPEARANCES:

For the Applicant : Mr. Abhishek Anand, Karan Kohli, Sahil Bhatia,
Vaibhav Mendiratta, Akhand Pratap Singh, Advs. In
IA-497/2022

For the Respondent : Mr. C S Gupta for Maruti Papers Limited in IA-
497/2022



ORDER

PER : AVINASH K. SRIVASTAVA, MEMBER (TECHNICAL)

1. This is an application filed by the Applicant/Resolution Professional with respect to sale of the leased property of the Corporate Debtor to Maruti Papers Limited under Section 60(5) of the Insolvency and Bankruptcy Code, 2016 (the Code, IBC) with the following prayer:
 - a. Allow the present application of the Applicant;
 - b. Issue appropriate directions for permitting the sale of the lease property of the corporate debtor, having (Khata- Khatauni, Serial No. 00794 bearing Khasra No. 664, 665, 666, 667 and 670) to Maruti Papers Limited, as approved by the CoC members in its meeting dated 06.04.2021 on the terms as;
 - c. Consequently, authorize the Resolution Professional i.e. Mr. Ajit Kumar to do all acts as required for execution of the sale of the said lease property on behalf of the corporate debtor to Maruti Papers Limited;
 - d. Pass any such order(s) that this Hon'ble Tribunal may deem fit;

Facts in Brief

2. It is submitted that Resolution Plan has already been approved vide order dated 01.04.2022 passed by this Tribunal and prior to it, the CoC members on 06.04.2021 in the 11th CoC meeting proposed a resolution for seeking approval on the proposal received from Maruti Papers Limited for an amount of Rs. 60 lakh for purchasing the land leased to Maruti Papers Limited. This particular resolution was put to e-voting, the result of which were finalized on 29.06.2021 in which the CoC approved the said resolution by 100%.
3. It is submitted that the applicant after retrieving the information from land department, ascertained that the property having Khata-Khatauni, Serial No. 00794 bearing Khasra No. 664, 665, 666, 667 and 670, land admeasuring 1.56 hectare, belongs to Corporate Debtor and was leased out to Maruti Papers Limited by the Corporate Debtor



for 99 years in consonance with a lease deed dated 12.06.1989 for a consideration/rent of Rs. 5000 per annum.

4. It is submitted that this particular fact of leasing of land was not divulged by the Suspended Board of Directors to the Applicant/Resolution Professional and therefore the valuation of the property was not done by the applicant.
5. It is submitted that the Applicant/Resolution Professional had provisioned a clause in the resolution plan with regard to aforesaid property and that the proceeds of the property shall be distributed among the Financial Creditors. The said clause is reproduced herein below:

“5.3.1 One Time Settlement of dues of Financial Creditors

*The huge pile up of liabilities towards the financial creditors is unsustainable, by the limited capacity and size of operations of Sikka. Accordingly, it is proposed to provide for one-time settlement of dues of financial creditors in line with their security interest and the settlement amount shall be paid within 12 months of effective Date from resources to be infused by the Resolution Applicants. **Any recovery from the property leased out to Maruti Papers Ltd. will be paid to the financial creditors as per the provisions of Section 53 of IBC.**”*

6. It is submitted that Maruti Paper Ltd, agreed to pay amount of Rs. 60 lakhs to acquire the property and the same was confirmed by Maruti Papers Ltd. vide email dated 16.06.2021 which was sent to the applicant/resolution professional.
7. It is submitted that thereafter Applicant/Resolution Professional informed the CoC members qua the final offer given by Maruti Papers Ltd and accordingly the resolution for e-voting was put forth and was also approved by CoC members with 100% voting on 29.06.2021 and the proceeds shall be distributed among the Financial Creditors of



CoC in accordance with the proportionate voting shares. The distribution of the proceeds among the Financial Creditors are reproduced herein below:

DISTRIBUTION OF THE PROCEEDS FROM MARUTI PAPERS LTD.

Particulars	Amount (In Rs.)	ARCIL	PNB	OBC
		49.82%	29.33%	20.85%
<i>Amount to be received from Maruti Papers Ltd.</i>	60,00,000			
<i>Less: Fees of Appointed Valuers</i>	50,000			
<i>Less: E-voting Expenses</i>	5,900			
<i>Balance Amount to be distributed among COC Members</i>	59,44,100	29,61,351	17,43,405	12,39,345

8. It is submitted that the proceeds of the sale are distributed among the OBC and PNB Bank in accordance with the voting share held by the said creditors prior to merger of both the banks. Pursuant to merger of OBC and PNB bank, the voting shares comes around 50.18% and the proceeds of the sale would be Rs. 29,82,750/-.
9. It is submitted that pursuant to the approval of CoC with respect to sale of the leased property, the applicant filed a status report being IA No. 3839 of 2021 to apprise qua amicable settlement of the lease property between the parties which was approved by the CoC members in the 11th CoC meeting and said status report was also taken on record by this Tribunal vide order dated 07.09.2021
10. **The Applicant has placed following documents on record:**
 - i. Copy of order dated 17.01.2022 passed by this Hon'ble Adjudicating Authority at **Annexure A-1**



- ii. Copy of the revised minutes of 11th CoC meeting along with voting results and the email dated 16.06.2021 is annexed at **Annexure A-2**
- iii. Copy of resolution plan submitted by Successful Resolution Applicant as approved by this Adjudicating Authority at **Annexure A-2** of the additional affidavit on behalf of the Applicant.
- iv. Copy of the Revenue Record i.e. Khatauni dated 04.11.2019 at **Annexure A-6** of the additional affidavit on behalf of the Applicant.
- v. Copy of the valuation report of fair market value & liquidation value of immovable property (land & building) of M/s Sikka Papers Ltd leased to Maruti Papers Ltd as submitted by Mr. Nishant Chandra Agarwal (Registered Valuer IBBI) at **Annexure A-5 (Pg-98)** of the additional affidavit on behalf of the Applicant.

11. Analysis and Findings

- i. We have heard the Ld. Counsel for the Applicant/Resolution Professional and perused the documents submitted by him. We find that the counsel for applicant has made compliance of the order dated 13.05.2022 passed by this Adjudicating Authority in which he was asked to place on record the approved resolution plan alongwith the specific paragraph of Resolution Plan which deals with the sale of the leased property and the proof of right vested in the Corporate Debtor to sell the leased property.
- ii. We find that the applicant has submitted the copy of revenue record of the leased property at Annexure 6 of the additional affidavit at Page 113 and translated copy of the revenue records is available at Pg 113A of the additional affidavit.
- iii. Also at Pg 13 of the application, minutes of 11th CoC meeting have been attached. Item No. 4 of the same talks about the **Discussion on the Proposal received from Maruti Papers**



Limited and the Resolution Applicant for the purchase of property leased to Maruti Papers Limited. At Page 17 of application the following Resolution was put for E-voting:

After discussion the following resolution was put for E-Voting:

“RESOLVED THAT Committee of Creditors be and is hereby accords its approval to the proposal received from Maruti Papers Limited for an amount of Rs. 60 lacs for purchasing the Immovable property of the Corporate Debtor being Land bearing Khasra No. 664, 665, 666, 667 and 570 admeasuring 1.56 hectares currently leased to Maruti Papers Limited

RESOLVED FURTHER THAT Mr. Ajit Kumar, the Resolution Professional be and is hereby authorised to do all such acts, deeds and things and to execute necessary deeds, papers and documents for the said purpose”

- iv. The result of the above resolution i.e. Approval of the Proposal received from Maruti Papers Limited or Resolution Applicant for purchasing the land leased to Maruti papers limited is given at page 22 of the application which depicts that the said resolution was passed by CoC with 100% assent.
- v. In view of the above, the prayer made in the IA-497/2022 is accepted and applicant is permitted to sell the leased property of the Corporate Debtor, having (Khata-Khatauni, Serial No. 00794 bearing Khasra No. 664, 665, 666, 667 and 670) to Maruti Papers Limited. We also authorize the Resolution Professional Mr. Ajit Kumar to do all the acts as required for execution of the sale of the leased property on behalf of the Corporate Debtor to Maruti Papers Limited. The proceeds of sale



shall be distributed among the financial creditors of the CoC as per para 7 of this order.

12. Order

The application No. IA 497/2022 is allowed and disposed of.

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**RAMALINGAM SUDHAKAR
(PRESIDENT)**

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**AVINASH K. SRIVASTAVA
MEMBER (TECHNICAL)**