THE NATIONAL COMPANY LAW TRIBUNAL
MUMBAI BENCH-I

IA No.1404 of 2025

Under Section 60(5) of Insolvency and Bankruptcy Code, 2016

MR. PANKAJ BHATTAD, RESOLUTION PROFESSIONAL OF GIGEO CONSTRUCTION COMPANY PRIVATE LIMITED

...**Applicant**

V/s

M/s. HOME GRID through its Proprietor Mrs. HETAL CHANDAN MADAN.

…**Respondent**

In the matter of

C.P.(IB) NO. 1180 (MB) OF 2022

OMKARA ASSETS RECONSTRUCTION PRIVATE LIMITED

…Petitioner

V/s

GIGEO CONSTRUCTION COMPANY PRIVATE LIMITED

…Respondent

Order delivered on: 13.08.2025

Coram:

Shri Prabhat Kumar
Hon'ble Member (Technical)

Shri Sushil Mahadeorao Kochey
Hon'ble Member (Judicial)

Appearances:

For the Applicant : Adv. Utsav Mukherjee a/w Adv. Shivam Mehra a/w Adv. Saksham Ahuja a/w Adv. Mayukh Roy and Adv. Bhaskar.

For the Respondent : Adv. Amit Agrawal.

ORDER

1. This Application IA 1404/2025 was filed by Mr. Pankaj Bhattad (Applicant), the Resolution Professional against the M/s Home Grid through its Proprietor Mrs. Hetal Chandan Madan, under Section 60(5) of The Insolvency and Bankruptcy Code, 2016 ("Code") in the Corporate Insolvency Resolution Process in case of Gigeo Construction Company Private Limited ("Corporate Debtor"), seeking following reliefs:

   a. *Direct the Respondent to vacate the Property situated at 4th floor of the Fortune Mall, Buti Road, City Survey No. 3110, 3111 & 3112 of Khasra No. 317 admeasuring around 12,000 Sq. fts., having Mouza Sitabuldi situated at Munje Square, Sitabuldi, Nagpur Tahsil, Maharashtra-440012 immediately; and*
   b. *Pass any order/ orders as deemed fit and proper.*

2. The Corporate Insolvency Resolution Process (" CIRP") of the Corporate Debtor was initiated vide an order dated 04.06.2024 passed by this Adjudicating Authority on an application being C.P.(IB) No. 1180/MB/2022 filed by the Financial Creditor under Section 7 of the Insolvency and Bankruptcy Code, 2016 ("the Code"). Vide the said order, the Adjudicating

Authority appointed Mr. Ritesh R. Mahajan, a registered Insolvency Professional having Registration Number IBBI/IPA-002/IPN00048/2017-18/10132 as the Interim Resolution Professional ("IRP") of the Corporate Debtor. Thereafter, the Adjudicating Authority by order dated 02.08.2024 in I.A. 3792/2024 appointed the Applicant as the Resolution Professional of the Corporate Debtor.

3. It is stated that, during the collation of documents and information of the Corporate Debtor, the Applicant found that the Corporate Debtor and the Respondent had entered into a Leave and License agreement dated 01.07.2023 whereby the Corporate Debtor had leased out its property situated at the 4th floor of the Fortune Mall ("the Property") to M/ s. Home Grid for a period of 3 years commencing from 01.07.2023 and ending on 31.06.2026. Upon verification of documents available with the undersigned and on perusal of the approved sanctioned plans by the Real Estate Regulatory Authority ("RERA"), it was observed by the applicant that approval was received for commercial utilization of the Ground Floor, 1st Floor and the 2nd Floor of the Fortune Mall. The 3rd and 4th Floors were designated car parking areas. Consequently, no commercial usage of the 3rd and 4th Floors of the Fortune Mall was ever permitted.

4. It is case of the applicant that the said Leave and License agreement is in direct violation of the sanction plans sanctioned by RERA. It is submitted by the applicant that the Respondent was asked to vacate the leased premises by 25.10.2024 vide email communication dated 11.10.2024 on the ground that the units constructed above the 2nd floor at Fortune Mall and Pulse Care are considered only for car parking and was again reminded vide email dated 14.10.2024 and 17.10.2024, however, despite receiving several email reminders the Respondent neither gave any response nor vacated the Property. The Respondent in its reply dated 20.11.2024 refused to vacate the Property and alleged misconduct by the erstwhile management of the Corporate Debtor. Thereafter, the Applicant issued reply dated 02.12.2024 to the

aforesaid reply denying the contentions of the Respondent and reiterating the Applicant's position that as no commercial usage of the 3rd and 4th Floor of the Fortune Mall was permitted in the sanctioned plans of RERA. Despite receiving numerous reminder e-mails and the legal notice dated 28.10.2024 and subsequent reply from the Applicant, the Respondent has till date did not vacate the Property and continues to remain in illegal occupation of the same. The Applicant again sent a communication dated 2.12.2024 to the aforesaid reply denying the contentions of the Respondent and reiterating the Applicant's position that no commercial usage of the 3rd and 4th Floors of the Pulse Care building was ever permitted in the sanctioned plans of RER.A. The Respondent has not vacated the Property till date and continues to remain in illegal occupation of the CIRP property.

Reply on behalf of the Respondent.

5. The Respondent filed its reply dated 10.6.2025 stating that the reliefs sought in the Application amount to an eviction order masked under the garb of insolvency resolution, which lies squarely outside the jurisdiction of this Tribunal, as the present dispute is in the nature of a civil dispute involving contractual and possessory rights, which must be determined by a civil court or competent authority under the Rent Control legislation or under the Provencial Small Causes Court Act.
6. The Respondent has also submitted that the said agreement was lawfully executed, signed by the then management of the Corporate Debtor, and supported by consideration and mutual obligations. As per the leave & license agreement, the respondent had to pay the monthly license fee of INR 35,000/- and have been paying the same consistently. The premises was leased out to respondent for starting and running a furniture cum home interior decorative articles showroom and the Respondent had infused humongous and exorbitant funds in renovation and modification of the premisesfor establishing the restaurant etc. in terms of liberty extended to it to alter, modify and renovate

the said premises to suit the purpose for starting the showroom. Further, the Respondent has paid the rent from time to time even after commencement of the CIRP.

7. It is case of the Respondent that it has thus made substantial investment in the fit-out and infrastructure of the premises, relying on the contractual obligations of the Corporate Debtor and the RP has not denied this investment and carrying out the work of permanent character over the premises by the respondent, acting upon the leave and license agreement, thus the Respondent could not be asked to vacate the said premises in terms of Section 60 of The Indian Easements Act, 1882. It was further contended that under section 33 of Maharashtra Rent Control Act, 1999, the jurisdiction does not lie with this Tribunal and even Section 47 of the said Act excludes the jurisdiction of Civil Court in relation to the matters covered under Maharashtra Rent Control Act, 1999.
8. Heard the Counsel and perused the material on record.
9. The Leave and Licence Agreement dt. 01.7.2023, was entered between the Corporate Debtor through its Director Chhaganlal and Home Grid through its proprietor Mrs. Hetal Chandan Madan and running a furniture cum home interior decorative articles showroom therefrom. The recital of the said Agreement reads *"AND WHEREAS the Licensee was in need of the premises for its Furniture Showroom in the same vicinity of Sitabuldi, Nagpur on leave and license basis and hence, was looking for the same"*.
10. There is no specific clause in the Leave & License Agreement vesting right in either party to terminate the said agreement before expiry of 36 months. However, clause 14 of the Leave & License Agreement provides that "*That the licensee shall deliver vacant and peaceful possession of the said premises after the termination of license or earlier as the case may be, but not prior to 6 (six) months from the date of commencement of this agreement.*" The words "terminate of license or earlier" and "*but not prior to 6 (six) months*" used in clause 14 of said Agreement are of significance and the right to termination is

discernible from these words. Had the parties intended to enter into a leave & license agreement for a specified period of 36 months without vesting any right in either of the parties to terminate the said agreement prior to its expiry, there was no need to insert clause 14 in the said Agreement. The contention of the Ld. Counsel for the Respondent that the Corporate Debtor had no right to terminate the said agreement in the absence of specific clause vesting such right is accepted, such interpretation would render the clause 14 of the said Agreement otiose. It is trite law that every word employed in a contract has to be assigned and the whole of the agreement has to be construed and read in such manner so as not to render any words appearing therein meaningless. Accordingly, we are of considered view that the said Leave & License Agreement contemplated termination of the agreement by communication of intent to terminate by either party after expiry of initial 6 months. Since, the Agreement does not specify any particular period of notice for vacation, a reasonable period is to be inferred. In the present case, the Applicant had given 30 days time to vacate the premises, which in our considered view constitutes reasonable period considering the overall tenure of the Agreement and the customary practice. Nonetheless, the Respondent is still stated to be in occupation even after expiry of about 9 months from service of termination notice.

11. The powers of the Board of Directors vest in the Resolution Professional upon commencement of CIRP, accordingly, the Respondent Professional is under obligation to protect and preserve the assets of the Corporate Debtor and can exercise the powers, which the Directors of the Corporate Debtor could have exercised. Accordingly, he also had right to terminate the said agreement, which he had exercised by giving the notice stipulated in clause 10 of the said agreement. The Applicant RP has pleaded that such termination was necessitated as the premises, in question, was being used for the purpose, which is not permissible in terms of the approved construction plan, thus continued

usage thereof by the Respondent could have led to adverse action by the civic authorities.

12. In view of these facts, we are of considered view that any act of the director can not lead to regularization of usage of licensed premises unless such change in the usage is in accordance with the sanctioned usage plan. Since, no evidence has been placed on record in relation to changed usage of premises, we do not find any substance in the submission of the Respondent that such changed usage, being within the knowledge of the Director of the Corporate Debtor, was permissible under the leave & license agreement. On the contrary, such arrangement between the Respondent and Chhagan Patel, the Director of the Corporate Debtor, demonstrates a collusion between the two to the detriment to the interest of Corporate Debtor.

13. The Ld. Counsel for the Respondent relied upon Section 60 of The Indian Easements Act, 1882 to content that their easement rights could not be disturbed by terminated and he also relied upon Section 33 of Maharashtra Rent Control Act, 1999 to contend that this Tribunal cannot exercise jurisdiction in this matter.

14. Section 60 of the Indian Easements Act, 1882 reads as under –

> *60. **License when revocable***
>
> *A license may be revoked by the grantor, unless*
>
> *(a)it is coupled with a transfer of property and such transfer is in force;*
>
> *(b)the licensee, acting upon the license, has executed a work of a permanent character and incurred expenses in the execution.*

15. It is pertinent to refer to clause 12 of the Leave & License Agreement, which reads as "12. *That the licensee at its own costs may install moveable furniture etc. as per the rule and regulation and the licensors shall not be held responsible for any damage of above mentioned goods due to fire, theft, or major etc."* This clause clearly bars the licensee from installing any furniture or civil work, which can not be removed. Further, Clause 5 of the said Agreement also provides that *"The Licensor hereby assures to the Licensee*

that the Licensor will finalise the civil infrastructure of the said premises which involves tasks such as tiling, application of putty, and any related elements except furniture, electric fittings, kitchen equipment & airconditioners. These endeavors are undertaken with the express purpose of transforming the premises into a suitable venue for banquet as required by the Licensee", thus making it clear that licensee could not have even undertaken any major repair to the structure. It is also pertinent to note that clause 5 of the Agreement reads contrary to the usage claimed by the Respondent i..e while clause 5 contemplates making ready the premises for Banquet, the actual usage contemplated in recital and admitted by the Respondent is furniture show room There is no clause in the said Agreement vesting right in the licensee to licensee to alter or modify the said premises to suit the purpose for starting the showroom as has been canvassed by the Respondent to demonstrate that it had to make substantial investments to do so. Since, the licensee was not authorized to create any permanent structure on the licensed premises and could not have carried out any work of permanent character. Even if any work was undertaken by the Licensee, such work was contrary to the terms of License Agreement, hence could not be said to have been undertaken acting upon the license. Accordingly, we do not find any substance in the contention of the Respondent that the License agreement could not be terminated by the Applicant RP in view of Section 60 of the Leave & License Agreement.

16. It is relevant to refer to decision in case of ***M/s. Jhanvi Rajpal Automotive Pvt. Ltd. Vs. R.P. of Rajpal Abhikaran Pvt. Ltd.,*** *(2023) ibclaw.in 09 NCLAT*, where the Hon'ble NCLAT dealt with the issue of jurisdiction of this Tribunal in terms of Section 60(5) of I B Code in cases where the Corporate Debtor happened to be lessor of the property. It held that "*17. The above was a case where challenge was to the Order of the State Government rejecting the proposal for deemed extension. Challenge to the said order could not have been made before the Adjudicating Authority since it was the matter of judicial review of action of the State Government. It is also relevant to notice one important*

distinction of the present case from the case of "Embassy Property Pvt. Ltd." (supra). The corporate debtor was only a lessee whereas in the present case, the lessee is the Appellant and the corporate debtor is the owner of the assets. Corporate Debtor being owner of the assets as observed in paragraph 40 by the Hon'ble Supreme Court, NCLT has been conferred with jurisdiction to decide all types of claims to property, of the corporate debtor. Section 18(1)(f)(vi) provides "assets subject to the determination of ownership by a court or authority". In the present case, there is no applicability of clause (vi) of Section 18(1)(f) since there is no cloud over the title of the corporate debtor over the assets nor any dispute pertaining to ownership of assets is pending in any court or authority. The judgment in the case of "Embassy Property" (supra) does not come to the aid of the Appellant in the present case."

17. It is also pertinent to note that Hon'ble Supreme Court in the case of ***Embassy Properties Developments Pvt. Ltd. Va. State of Karnataka and Ors. (2020) 13 SCC 308***, it was held that "*41. Therefore, in the light of the statutory scheme as culled out from various provisions of the IBC, 2016 it is clear that wherever the corporate debtor has to exercise a right that falls outside the purview of the IBC, 2016 especially in the realm of the public law, they cannot, through the resolution professional, take a bypass and go before NCLT for the enforcement of such right.*"

18. However, in the present case, the leave & license agreement, in question, stands terminated and in terms of clause 14 of the said agreement, the Respondent is obligated to handover the possession thereof. Indubitably, the period of six months from the commencement of this agreement had already expired when the notice of termination was served by the Resolution Professional. The Hon'ble NCLAT in the case of ***Sumati Suresh Hegde and Ors. v. Anand Sonbhadra (RP) and Ors.,*** (2025) ibclaw.in 29 NCLAT distinguished tenancy from the fixed time lease/license, which are governed by section 106 of the Transfer of Property Act, 1882. It is stated at Para 28 therein that "…………*There is a sharp difference between the lease and a tenancy. The lease is for a fixed period*

of time which can be terminated by issuance of notice under Section 106 of the Transfer of Property Act, 1882 whereas the tenancy continues until it is changed by contract or by operation of law……………".

19. Further, the contention of the Respondent that Section 20(2)(b) confers authority on the RP to "modify or amend" contracts to keep the Corporate Debtor a going concern and said clause does not empower the RP to unilaterally terminate legally binding contracts without due process is devoid of any merit. It is pertinent to note that Section 17(1)(b) vests the power of suspended board in the Interim Resolution Professional and said power is to be exercised by Resolution Professional. Section 25(1) of the I B Code requires Resolution Professional to preserve and protect the Assets of the Corporate Debtor. In our considered view the power to modify or amend the contracts with Third Party includes the power to exercise rights under such contract with the Third Party in course of management of the Corporate Debtor.

20. In view of the above, we do not find any substance in the submission of the Respondent that the Applicant could not have terminated the said agreement and this Tribunal's jurisdiction is excluded by the provisions of Section 33 of Maharashtra Rent Control Act, 1999. Accordingly, the Respondent is directed to handover the Property situated at 4th floor of the Fortune Mall, Buti Road, City Survey No. 3110, 3111 & 3112 of Khasra No. 317 admeasuring around 12,000 Sq. fts. having Mouza Square, Sitabuldi Nagpur Tahsil Maharashtra-440012, within Thirty days from the date of communication of this Order. It is made clear that the Respondent shall also be liable to pay for the license fees remaining unpaid for the period the said premises was under his occupation i.e. till the time of vacation as aforesaid.

21. In view of this, IA No. 1404 of 2025, is allowed and disposed of.

Sd/-	Sd/-
Prabhat Kumar	**Sushil Mahadeorao Kochey**
Member (Technical)	Member (Judicial)