

**BEFORE THE NATIONAL COMPANY LAW TRIBUNAL  
BENGALURU BENCH**

I.A.No.71 of 2021 in  
C.P. (IB)No.131/BB/2017  
U/s.60(5) of the IBC, 2016  
R/w. Regulation 44 (2) of the IBBI  
(Liquidation process)Regulations, 2016  
And Rule 11 of the NCLT Rules, 2016

**In the matter of:**

Mr. Shivadutt Bannanje  
*Liquidator of*  
*Fortuna (India) Projects Private Limited*  
R/o. at S-505, South Block,  
Manipal Centre,  
No.47, Dickenson Road,  
Bengaluru – 560 042

- Applicant/Liquidator

**Date of Order: 17<sup>th</sup> March, 2021**

**Coram:** 1. Hon'ble Shri Rajeswara Rao Vittanala, Member (Judicial)  
2. Hon'ble Shri Ashutosh Chandra, Member (Technical)

**Parties/Counsels Present:**

For the Applicant : Shri C.K.Nandakumar with  
Shri Shivadutt Bannanje, Liquidator

**ORDER**

**Per:** Rajeswara Rao Vittanala, Member (Judicial)

1. I.A.No.71 of 2021 in C.P.(IB)No.131/BB/2017 is filed by Mr. Shivadutt Bannanje, Liquidator of Fortuna (India) Projects Private Limited ('Applicant'), U/s.60(5) of the IBC, 2016 R/w. Regulation 44 (2) of the IBBI (Liquidation process) Regulations, 2016, and Rule 11 of the NCLT Rules, 2016 by inter-alia seeking to extension of time period



of liquidation process of the Corporate Debtor by a period of 180 days from 21.02.2021.

2. Brief facts of case, as mentioned in the Application, which are relevant to the issue in question, are as follows:

- (1) Initially, the main Company Petition bearing C.P.(IB)No.131/BB/2017 filed by Reliance Capital AIF Trustee Company Private Limited, U/s.7 of IBC 2016, by inter alia seeking to initiate CIRP in respect of the Corporate Debtor, was admitted by the Adjudicating Authority vide its Order dated 09.08.2019, by initiating CIRP; appointing the Applicant as IRP, imposing moratorium etc. Since no suitable Resolution Plan was received, the Corporate Debtor was placed under Liquidation process by an Order dated 25.10.2019, by appointing the Applicant as Liquidator. Accordingly, the liquidator made Public Announcement for commencement of liquidation of the Corporate Debtor and inviting claims from the Creditors of the Corporate Debtor in Financial Express (English Paper) and Vishwavani (Kannada Paper) on 07.11.2019 and last date for submission of claims was 04.12.2019.
- (2) However, owing to the outbreak of the COVID-19 pandemic across the country from 15.03.2020, the Government of India was constrained to announce a national lockdown across the country which was effective from 24.03.2020, and remained effective till 31.05.2020. During this period, the liquidator was unable to undertake any activities towards conduct of the liquidation process. The restrictions in place made it extremely difficult for liquidator to carry out his tasks, which include visit to the office of the Corporate Debtor, taking stock of all its assets, collating claims of creditors etc. On account of these challenges,

the Applicant was constrained to prefer an Application in I.A.No.434 of 2020 seeking exclusion of 120 days which was allowed by this Adjudicating Authority vide its order dated 11.11.2020. Immediately upon the restriction owing to the pandemic being eased, the Applicant has been diligently taking steps to dispose of the assets of the Corporate Debtor, so as to ensure that the liquidation estate can eventually be distributed for the ultimate benefit of all the creditors, and to complete the liquidation period expeditiously, and within the timelines prescribed.

- (3) The main immovable property of the Corporate Debtor is a share in a commercial building located in Bangalore. This property also has tenants. The Liquidator upon taking charge, has taken steps to ensure that the rents are paid, and also for the eviction of the said tenants. Further, the records in respect of the said property were not properly updated, and as a result, the Applicant had to take steps to ensure that these issues are resolved, before any sale can happen. Owing to these reasons, along with the fact that in the midst of a pandemic, the real estate market has seen a substantial downturn, the eventual sale of this property has taken longer than expected.
- (4) Despite these challenges, the Applicant took steps to conduct an auction of the Corporate Debtor's immovable property on 21.01.2021. However, the auction was not successful since the Applicant did not receive any bids for any of the assets of the Corporate Debtor. In addition, the assets of the Corporate Debtor are afflicted by title issues, which have hampered the Applicants efforts of disposing them to create liquidity to clear the Corporate Debtor's obligations. Therefore, while the Applicant is undertaking persistent efforts to maximize the value of the assets

of the Corporate Debtor, such efforts have been met with limited success possibly on account of the current market conditions. After the first auction failed, the Applicant has been meeting various potential buyers, and also the other owners in the commercial building to ensure that the sale can take place. Despite these challenges, the Applicant has been taking all necessary steps, and having met various prospective buyers, is conducting a fresh auction on 23.02.2021.

- (5) In the meantime, the Applicant has also been taking the necessary actions to clear defects in the title of the properties/assets of the Corporate Debtor, to ensure that the property attracts prospective buyers. Further, as per the Schedule I – Mode of Sale Clause 1(12) of the IBBI (Liquidation process) Regulations, 2016, on the close of the auction, the highest bidder shall be invited to provide balance sale consideration within ninety days of the date of such demand, provided that payments made after thirty days shall attract interest at the rate of 12%, further that the sale shall be cancelled, if the payment is not received within ninety days.
  - (6) In order to complete this sale, the Applicant would require an additional 6 months' time for the completion of the liquidation process of the Corporate Debtor. The Applicant has already taken steps to ensure that as soon as the funds are received, the Applicant is in a position to disburse the amounts to the creditors, so that the ultimate aim of the liquidation process – which is to maximize value for all creditors, is achieved. However, given all these attendant challenges, has taken a little longer than usual. Hence, this Application.
3. Heard Shri C.K.Nandakumar, learned Counsel for the Liquidator with

Shri Shivadutt Bannanje, Liquidator. We have carefully perused the pleadings of the party and also extant provisions of the Code and Rules made thereunder.

4. In terms of provisions of Code and the Rules made thereunder, CIRP/ Liquidation has to be concluded within time lines prescribed. However, the Parties can ask for further extension/exclusion depending on circumstances in a given case. As pointed by the Applicant, the highest bidder shall be invited to provide balance sale consideration within ninety days of the date of such demand, provided that payments made after thirty days shall attract interest at the rate of 12%, further that the sale shall be cancelled, if the payment is not received within ninety days. Therefore, the Applicant is justified to seek further time. However, we are inclined to grant tentatively 150 days' time from 21.02.2021 to complete the Liquidation process, and to file necessary Application for dissolving the Company at the earliest.
5. In the result, I.A.No.71 of 2021 in C.P.(IB)No.131/BB/2017 is hereby disposed of by granting 150 days' time from 21.02.2021 to complete the Liquidation process in question, and to file necessary Application for dissolving the Corporate Debtor. No order as to costs.

**ASHUTOSH CHANDRA  
MEMBER, TECHNICAL**

**RAJESWARA RAO VITTANALA  
MEMBER, JUDICIAL**

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