

NATIONAL COMPANY LAW APPELLATE TRIBUNAL
NEW DELHI

Company Appeal (AT) (Insolvency) No. 692 of 2019

IN THE MATTER OF:

Atul Kumar Kansal **...Appellant**

Versus

Nova Realtors Pvt. Ltd. & Anr. **...Respondents**

Company Appeal (AT) (Insolvency) No. 693 of 2019

IN THE MATTER OF:

Atul Kumar Kansal **...Appellant**

Versus

State Bank of India **...Respondent**

Present:

For Appellant : **Mr. Neelambika Singh, Advocate**

O R D E R

08.07.2019 The 'Resolution Professional' has preferred this appeal against the order dated 27th May, 2019, which reads as follows:

*“**CA 439/2019** has been filed by the Resolution Professional praying for a status quo in respect of land belonging to the Respondent no. 1. Reply to this has been filed by the registered owner of the land. Relying upon the decision of the civil court, the non-applicant submits that the MOU dated*

12th March, 2010 has been declared cancelled vide an order dated 24th January, 2018.

In view of the same, RP shall ensure that no rights are created over this property. The prayer made in this application does not merit any consideration and is dismissed.”

The same very ‘Resolution Professional’ has filed a ‘**Company Appeal (AT) (Insolvency) No. 693 of 2019**’ against the same very impugned order in C.A. No. 501/2019, which reads as under:

“CA 501/2019 has been filed praying or release of the amount by way of security for furnishing a bank guarantee which is valid up to 31st July, 2019. This Bank guarantee has been given by the Corporate Debtor and its Directors. Keeping in view the moratorium imposed, it is directed that this bank guarantee shall not be invoked till further orders of this court.

Mr. Sameer Kumar, Bank Manager, State Bank of India is present in court and has been apprised of the order.”

Having heard the learned counsel for the parties and taking into consideration the facts, the Adjudicating Authority has allowed the ‘Resolution Professional’ to ensure that no rights are created over the property.

Learned counsel for the Appellant submits that the Bank Guarantee of Rs.2,26,37,394/- and another FDR is Rs. 99 Lakhs against which the Bank

Guarantee subsists. However, taking into consideration the facts that no ground shown by the Appellant for release of the amount by way of security (Bank Guarantee), we are not inclined to interfere with the impugned order. However, we make it clear that if the 'Resolution Professional' has difficulty to keep the company a going concern he may bring the same to the notice of the Adjudicating Authority and the Adjudicating Authority may decide the matter afresh without influenced by the impugned order dated 27th May, 2019 or the order passed by this Appellate Tribunal.

Both the appeals stand disposed of with aforesaid observations.

[Justice S.J. Mukhopadhyaya]
Chairperson

[Justice A.I.S. Cheema]
Member (Judicial)

[Kanthi Narahari]
Member (Technical)

/ns/gc