

*raised objection stating that as per the rules the type set cannot be allowed to be brought on record at the belated stage. The Counsel for the Petitioner submitted that the documents are already mentioned in the petition and some of the documents are pertaining to communication between the parties. Therefore, the objection of the Counsel for the Respondent is rejected. The documents are taken on record. Counsel for the Respondent prayed for two weeks' time to go through the documents and to argue the matter. At request, time is enlarged. Put up on **25.10.2017 at 10.30 A.M.***

MEMBER(JUDICIAL)

It may not be in the interest of justice to allow any of the parties to bring on record additional documents even after many hearings on the petition. This petition was first listed before this Bench on 09.06.2017. If in case any additional documents are to be taken on record, the other party should be given an opportunity to file their objections, if any. In view of this, I am of the opinion that the additional documents may be taken on record, if necessary, after hearing the Respondents in the instant case.

MEMBER(TECHNICAL)

Learned counsel submits that it is transfer petition which has been treated as Section 9 proceeding under the Insolvency and Bankruptcy Code,

2016. According to him although the proceeding was transferred to the adjudicating authority somewhere in June, 2017, still the same is pending and the matter is protracting. He is submitting that the proceeding should have been treated as abated. It is argued that in the impugned order Member (Judicial) took documents on record while Member (Technical) expressed opinion of giving a hearing.

We find that the impugned order to be an interim order regarding filling and receiving of documents. It will be appropriate for the appellant to move the adjudicating authority with regard to grievances being raised. The Appellant may raise the points being raised here before the learned adjudicating authority.

We hope and expect that the adjudicating authority will look into the provisions of the Insolvency and Bankruptcy Code, 2016 and decisions rendered by this Tribunal regarding scope available to the adjudicating authority while considering the application under Section 9. Reference can be made to the judgment of the Hon'ble Supreme Court in the matter of "Innoventive Industries Limited Vs. ICICI Bank & Another", Dt. 31.08.2017 in Civil Appeal No. 8337-8338 of 2017.

With these observations present appeal stands disposed.

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

(Justice Bansi Lal Bhat)
(Member (Judicial))

(Balvinder Singh)
Member (Technical)