

NATIONAL COMPANY LAW APPELLATE TRIBUNAL, NEW DELHI

Company Appeal (AT) (Insolvency) No. 146 of 2020

IN THE MATTER OF:

Dr. P. Mahalingam

..... Appellant

Versus

Muthoot Fincorp Ltd. & Ors.

..... Respondents

Present:

For Appellant: Mr. Dr. U.K. Chaudhary, Sr. Advocate with Mr. Saurabhkalia and Ms. Saloni Purohit, Advocates.

For Respondent: Mr. Gautam Swarup, Advocate for Respondent No.1

ORDER

24.01.2020 Learned counsel for the Appellant (Promoter) submitted that instead of 'Interim Resolution Profession', the 'Financial Creditor' i.e. 'Muthoot Fincorp Ltd. has taken over the control of records of assets of the 'Corporate Debtor', i.e. Hospital which is in violation of Section 18 (f) of the 'Insolvency and Bankruptcy Code, 2016'. The 'Interim Resolution Professional' has not been allowed to take over the possession and the control of the management of the Hospital of the 'Corporate Debtor'.

It is further submitted that the Appellant (Promoter) wanted to settle the matter with the 1st Respondent - 'Muthoot Fincorp Limited' but without giving time the Adjudicating Authority, National Company Law Tribunal, Chennai, passed order of liquidation on 4th December, 2019.

Mr. Gautam Swarup, Advocate appears on behalf of 'Muthoot Fincorp Ltd.'- Financial Creditor (1st Respondent). He is allowed to file reply-affidavit within a week. Rejoinder, if any, be filed within a week thereafter.

Post the case 'For Admission (Fresh Cases)' on **18th February, 2020**.

During the pendency of the Appeal, the 'Financial Creditor' and the liquidator are directed not to sell the movable and immovable assets of the Company and will not transfer or alienate or create any third party interest including lease on movable or immovable property of the 'Corporate Debtor' including the Hospital, in question. The liquidator will ensure that the 'Corporate Debtor' (Hospital) remains a going concern and he may collate the claim and proceed in accordance with law as per the decision of this Appellate Tribunal in **"Y. Shivram Prasad Vs. S. Dhanapal & Ors.- Company Appeal (AT) (Insolvency) No. 224 of 2018 disposed of on 27th February, 2019"**.

If the control of the assets and records of the 'Corporate Debtor' is with the 1st Respondent -'Muthoot Fincorp Limited', it will hand over the same to the liquidator immediately failing which appropriate order may be passed including order under Section 65 of the 'Insolvency and Bankruptcy Code, 2016'.

[Justice S.J. Mukhopadhaya]
Chairperson

[Shreesha Merla]
Member (Technical)