

**NATIONAL COMPANY LAW APPELLATE TRIBUNAL, NEW DELHI**

**Company Appeal (AT) (Insolvency) No. 119 of 2020**

**IN THE MATTER OF:**

**Gajender Sharma**

**...Appellant**

**Vs.**

**M/s. Dinesh Sanitary Store & Anr.**

**...Respondents**

**Present: For Appellant: - Mr. Rakesh Munjal, Senior Advocate with Mr. Siddharth Sangal and Mr. Ritesh Khare, Advocates.**

**For Respondents:- Mr. Manoj Kumar Garg, Mr. Siddhartha Patra, Advocates for IRP Mr. Rakesh Kumar Jain.**

**Mr. Biswaksen Panda, Mr. Gursat Singh, Advocates and Mr. Prassan Sinha, PCS.**

**O R D E R**

**23.01.2020—** The Respondent- ‘M/s. Dinesh Sanitary Store’- (‘Operational Creditor’) filed an Application under Section 9 of the Insolvency and Bankruptcy Code, 2016 (‘I&B Code’ for short) against ‘M/s. Krishna Estate Developers Private Limited’- (‘Corporate Debtor’). The Adjudicating Authority (National Company Law Tribunal), Principal Bench, New Delhi, by impugned order dated 4<sup>th</sup> January, 2020 admitted the application.

2. Learned counsel for the Appellant submits that immediately thereafter and before constitution of the ‘Committee of Creditors’, the Appellant reached a settlement with ‘M/s. Dinesh Sanitary Store’-

Contd/-.....

(‘Operational Creditor’) by Settlement Deed dated 10<sup>th</sup> January, 2020 (enclosed at page 92). Copy of the draft of payment has been enclosed.

3. Ms. Anjali Jain, Advocate appears on behalf of ‘M/s. Dinesh Sanitary Store’- (‘Operational Creditor’) accepts that the matter has been settled and the Respondent has received the amount before the constitution of the ‘Committee of Creditors’.

4. Mr. Manoj Kumar Garg, counsel for the ‘Interim Resolution Professional’ submits that the ‘Committee of Creditors’ was constituted on 21<sup>st</sup> January, 2020. At this stage, counsel for the Appellant submits that the Appeal was filed on 13<sup>th</sup> January, 2020 but it has been taken up for the first time today.

5. Mr. Biswaksen Panda, Advocate submits that he intends to intervene on behalf of Ms. Prema Gupta- (‘Financial Creditor’).

6. Mr. Rakesh Munjal, learned Senior Counsel for the Appellant submits that Ms. Prema Gupta moved an Application under Section 7 of the ‘I&B Code’ before the Adjudicating Authority which was dismissed on 18<sup>th</sup> December, 2019 with a liberty to file a fresh Application subject to payment of cost of Rupees Ten Thousand.

7. The Respondents are allowed to file their respective reply-affidavits along with Vakalatnama by 28<sup>th</sup> January, 2020. The ‘Interim Resolution Professional’ will inform the cost incurred by him and fee payable. If any Intervention Application is filed by Ms. Prema Gupta, the same be kept on record.

Post the case ‘for orders’ on 3<sup>rd</sup> February, 2020. The Appeal may be disposed of on the next date.

In the meantime, the 'Committee of Creditors' will not sanction any plan. The Appellant/ Promoters of the 'Corporate Debtor' are directed to handover the assets and records of the 'Corporate Debtor' to the 'Interim Resolution Professional' immediately. The 'Interim Resolution Professional' will ensure that the Company remains a going concern and will take assistance of the (suspended) Board of Directors and the officers/ Directors/employees. The person who are working will perform their duties including the paid Directors. The persons who is authorised to sign the bank cheques may sign cheques only after authorisation of the 'Interim Resolution Professional' with counter signature of the 'Interim Resolution Professional' at the back side of the cheques. In such case, the Bank shall release the payment. The 'Interim Resolution Professional' will place this order before the Banks, in which accounts of 'Corporate Debtor' are maintained. The Bank Account(s) of the 'Corporate Debtor' be allowed to be operated for day-to-day functioning of the company such as for payment of Current Bills of the Suppliers, Salaries and Wages of the employees'/ workmen, electricity bills etc.

(Justice S.J. Mukhopadhaya)  
Chairperson

(Shreesha Merla)  
Member(Technical)

Ar/RR