

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

**Company Appeal (AT) (Insolvency) No. 60 of 2018**

**IN THE MATTER OF:**

**Devendra Padamchand Jain**  
**(Resolution Professional)**

**...Appellant**

**Versus**

**Sandhya Prakash & Ors.**

**...Respondents**

**Present:**

**For Appellant : Mr. Vinit Trehan, Advocate**

**ORDER**

**27.02.2018** This appeal has been preferred by Devendra Padamchand Jain, Resolution Professional against order dated 23<sup>rd</sup> January, 2018 passed by the Adjudicating Authority (National Company Law Tribunal), Ahmedabad Bench, Ahmedabad in I.A. 2 of 2018 in C.P. (I.B.) No. 113/7/NCLT/AHM/2017, which reads as under :

*“Learned Advocate Mr. Vishal Dave with Learned Advocate Mr. Nipun Singhvi present for Applicant. None present for Respondent in IA 2 of 2018.*

*Proof of service of notice of date hearing and proof of service of copy of application on Respondents no.2 to 7 filed.*

*None appeared for Respondent no.2 to 7.*

*Heard arguments of learned Counsel for RP.*

*This application is filed by RP seeking direction to respondents no.2 to 5 to pay the rent and for direction to the police to give*

*the protection to take charge of the assets and for direction to Respondent no.6 and 7 styling them as unauthorised occupants under section 14 r/w section 20 of IB Code.*

*It appears this application is filed without the approval of the COC. Section 14 of the IB Code only imposes moratorium from the recovery of any property by an owner or lessor, where such property is occupied by or in the possession of corporate debtor. Therefore, RP cannot invoke section 14(1)(d) of the IB Code.*

*In case RP finds any difficulty in discharging its function as laid down in section-25 of the IB Code, he can approach the District Administration under regulation 30 of Insolvency and Bankruptcy (Insolvency Resolution) Regulations, 2016.*

*Hence, the application is dismissed in respect of relief against the tenants. However, the RP is entitled to recover rent from the tenants. He can also approach the District Administration in discharge of its duties, if necessary.*

*Application is disposed of accordingly.”*

2. Learned counsel for the appellant referring to sub-section (f) of Section 18 of the Insolvency and Bankruptcy Code, 2016 submits that duty of insolvency resolution professional is to take over assets that may or may not be in possession of the Corporate Debtor. Though we accept the submission made above, that does not mean the insolvency resolution professional can remove the tenant though it is open to him to take over the possession of the assets of the Corporate Debtor. If the tenant is not paying the rent, it is also open to the

insolvency resolution professional to move before the appropriate forum/court of law.

3. We find no infirmity in the impugned order. Hence no interference is called for. The appeal is dismissed. No order as to costs.

[Justice S.J. Mukhopadhaya]  
Chairperson

[ Justice Bansi Lal Bhat ]  
Member (Judicial)

/ns/uk/