

NATIONAL COMPANY LAW APPELLATE TRIBUNAL, NEW DELHI

I.A. Nos. 2605 & 2606 of 2020 with I.A No. 2547 of 2020

IN

Company Appeal (AT) (Insolvency) No. 891 of 2020

IN THE MATTER OF:

Greenopolis Welfare Association

...Appellant

Versus

Three C Shelters Pvt. Ltd. & Anr.

...Respondents

Present:-

**For Appellant: Mr. Piyush Singh and Mr. Prateek Vats,
Advocates.**

**Ms. Asmita Chaudhary and Ms. Sonal Alagh,
Advocates for Impleadment.**

For Respondent: Mr. Nikhil Jain, Advocate.

ORDER
(Virtual Mode)

03.11.2020 Heard.

1. I.A. No. 2547 of 2020 has been filed the Appellant raising grievances that in spite of stay order dated 15.10.2020 passed by this Tribunal to the order of admission dated 20th July, 2020, the Adjudicating Authority has proceeded to pass order dated 16th October, 2020 and the IRP is proceeding ahead in spite of stay order which was passed.

2. The order dated 15th October, 2020 of this Tribunal passed on filing of the Appeal reads as under:

“Referring to the impugned order dated 20th July, 2020 passed in IB-2721/ND/2019 and impugned order dated 17th September, 2020 passed in I.A. No. 3491/ND/2020 in (IB)-2721/ND/2019 by the Adjudicating Authority (National Company Law Tribunal), New Delhi Court No. IV, it is submitted that the exercise of power under Rule 11 is injudicious.

Issue notice upon Respondents. Appellant to provide mobile Nos./e-mail address of the Respondents. Notice be issued through e-mail or any other available mode. Requisites along with process fee be filed within three days.

At this stage, Mr. Nikhil Jain, Advocate appeared on behalf of Respondent No.1. No further notice be served upon Respondent No. 1. Learned counsel for the Appellant may provide complete set of paper book to learned counsel for Respondent No. 1 during the course of the day. Reply affidavit be filed by -2- Respondent No. 1 within one week. Rejoinder thereto, if any, may be filed within one week thereof.

List before Court No. II 'for admission (after notice)' on 9th November, 2020.

Meanwhile, till next date of hearing the impugned orders are stayed."

3. Learned Counsel for the Appellant is submitting that this order was communicated to the Registry of NCLT on the same day. The Adjudicating Authority has then passed order dated 16th October, 2020, copy of which is at Annexure A-3 of Diary No. 22923 (I.A. No. 2547 of 2020).

4. The Learned IRP is submitting that the Appellant suppressed from this Tribunal the order dated 14th October, 2020 (Annexure A-1) in Diary No. 23084 by which the Adjudicating Authority had put on record that the detail orders/Final Judgment will be uploaded in next three days. She is claiming that the stay order was obtained by suppressing facts.

5. Looking to the record, it appears to us appropriate that the dispute which are being raised by the parties by filing I.A. Nos. 2606 of 2020 & 2547 of 2020

and the Appeal deserve to be taken up together for consideration. This Tribunal by order dated 15th October, 2020 stayed the impugned order dated 20TH July, 2020 which was order of admission of Application under Section 9 (Wrongly mentioned in the title as under Section 7 of IBC). As such, the further order dated 16th October, 2020 which itself states that the said order is to be read along with the order dated 20th July, 2020, is required to be stayed till next date. We are staying the same till next date, so that we can hear the disputes being raised in the I.As as well as in the Appeal on its merits together, in an urgent manner so that the parties may not remain in any confusion.

6. The Appellant is directed to show the Respondent No. 1/Corporate Debtor-Three C Shelters Pvt. Ltd. "through IRP". The Memo of Parties be corrected accordingly.

7. The Respondent Nos. 1 and 2 in Appeal are directed to file their Reply-Affidavits to the Appeal as well the I.A. No. 2547 of 2020 filed by the Appellant within 10 days. Rejoinder, if any, may be filed in another three days. Parties may file brief Written-Submissions, not more than three pages with regard to the merits of the Appeal and Written-Submissions with regard to the disputes raised by the Appellant in I.A. No. 2547 of 2020. Copies of Judgments, they want to refer and rely on, may also be filed separately.

8. Learned Counsel in I.A. No. 2605 of 2020 seeking impleadment will be orally heard for the I.A.

8. List the Appeal along with pending I.A.s on **20th November, 2020**.

9. Till 20.11.2020, the order dated 16th October, 2020 Annexure A3 (Page 16 of I.A. No. 2547 of 2020) shall also remain stayed.

On 20.11.2020, Appeal and I.A.s will be taken up for hearing. List the same high on Board in Admission after Notice category.

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

[V.P. Singh]
Member (Technical)

Basant B./nn/