



HARYANA REAL ESTATE REGULATORY AUTHORITY PANCHKULA

Website: www.haryanarera.gov.in

BEFORE ADJUDICATING OFFICER

Execution No. 755 of 2023

In

Complaint No. 1168 of 2020

Amit Kumar Gupta

....DECREE HOLDER

VERSUS

Ansal Properties & Infrastructure Ltd

.....JUDGMENT DEBTOR

Date of Hearing:- 03.04.2025

Hearing:- 7th

Present:- None for the decree holder.

Mr. Shivdeep, Adv. proxy for Mr. Ajay Ganghas, Adv., for judgment debtor through video conferencing.

ORDER

Today, case is fixed for filing verified details of movable and immovable property for the purpose of attachment by decree holder. As per office report, same has not been filed till date.

2. An application under Section 151 CPC has been moved on behalf of the judgment debtor through counsel, though proceeded ex-parte in this case vide order

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dated 17.12.2024, intimating that a moratorium under Section 14 of the Insolvency and Bankruptcy Code, 2016, (hereinafter referred as IBC), has been declared vide order dated 25.02.2025 in CP no.IB558(ND)/2024 titled as "M/s IL & FS Financial Services Ltd. v/s Ansal Properties and Infrastructure Ltd.," by Hon'ble National Company Law Tribunal, New Delhi, Court-IV. It is also prayed therein that because of declaration of moratorium qua the judgment debtor, a corporate entity, as per provisions of Section 14(1)(a), (b), (c) and (d) of the Code, 2016, there is prohibition for "the institution of suits or continuation of pending suits or proceedings against the corporate debtor including execution of any judgment, decree or order in any court of law, Adjudicating Authority, arbitration panel or other authority". Hence, prayer is made therein that in view of the law laid down by Hon'ble apex Court in P. Mohanraj & Ors. v/s M/s Shah Brother Ispat Pvt. Ltd., (2021) 6 SCC 258 and Innoventive Industries Ltd. v/s ICICI Bank, (2018) 1 SCC 407, the present proceedings cannot be proceeded with till the completion of the CIRP i.e. Corporate Insolvency Resolution Process, hence, be adjourned sine die.

3. Learned proxy counsel for judgment debtor in support of application made has prayed to adjourn the case sine die.

4. The perusal of order dated 25.02.2025 of the Hon'ble NCLT, New Delhi, indicates that application under Section 7 of the IBC has been admitted with an

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order therein to initiate CIRP against the corporate debtor i.e. M/s Ansal Properties and Infrastructure Ltd., which is the judgment debtor in the case in hand. It is also evident from the order dated 25.02.2025 that prima facie the present proceeding cannot be proceeded with because of the bar provided under Section 14 of the Code, 2016 and it is the IRP appointed to do the needful further in accordance with law. It is further evident that the present CP no. IB558(ND)/2024 stands admitted vide order dated 25.02.2025. With these facts on record, it would be against the spirit of Section 14 of the Code, 2016 and the law on the subject to proceed with present execution against the judgment debtor company any more, moreso when there is no provision to keep such execution pending till CIRP proceedings culminate as no period could be laid for the same. It is apt to note here that even to curtail the multiplicity of litigation where moratorium has been declared, Hon'ble Apex Court in Civil Appeal no. 7667 of 2021 titled as "Sundaresh Bhatt, Liquidator of ADG Shipyard v/s Central Board of Indirect Taxes and Customs" vide order dated 26.08.2022, has observed that "issuance of moratorium is mandate to declare a moratorium on continuation or initiation of any coercive legal action against the Corporate Debtor".

Above, prima facie findings of prohibition of bar of execution against judgment debtor a corporate entity, of this Forum are open to correction in view of law settled by Hon'ble Apex Court in P. Mohanraj & Ors. v/s M/s Shah Brother


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Ispat Pvt. Ltd., (2021) 6 SCC 258 and Anjali Rathi & Others v/s Today Homes and Infrastructure Pvt. Ltd. (2021) SCC Online SC 729, if finally facts of the case under consideration demands.

Case called several times but none has appeared on behalf of decree holder in compliance of order dated 17.12.2024. It is already 04:00 PM. No further wait is justified. Hence, the present execution petition is **dismissed in default** for want of prosecution in view of the provisions of Order XXI Rule 105 of CPC, as this Forum while exercising the power under Section 40 of the RERA Act, 2016 read with Rule 27 of IIRERA, Rules, 2017, is competent to exercise powers of a Civil Court, in the same manner as Civil Court is dealing with execution of a civil decree.

File be consigned to record room after uploading the order on the website of the Authority.

Indu Yadav
Law Associate


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MAJOR PHALIT SHARMA
ADSJ (Retd.)
ADJUDICATING OFFICER
03.04.2025