



HARYANA REAL ESTATE REGULATORY AUTHORITY PANCHKULA

Website: www.haryanarera.gov.in

BEFORE THE ADJUDICATING OFFICER

EXECUTION NO. 61 OF 2020

IN

COMPLAINT NO. 777 OF 2018

Desh Raj Mangal

....Decree Holder

VERSUS

Aerens Jai Realty Pvt. Ltd..

...Judgment Debtor

Date of Hearing: 30.10.2025

Hearing: 40th

Present: Mr. Desh Raj Mangal, decree holder through VC.
None for the judgment debtor.

ORDER

Today, the case is fixed for filing reply to the query raised by this Forum to the decree holder, a senior citizen, wherein it was in brevity asked to the decree holder as to how he is legally permitted to continue with his claim in the moratorium proceedings before IRP and simultaneously for the recovery of the same amount before this Forum in execution of the order? The relevant part of para 5, para 6 and para 7 of the previous order dated 01.07.2025 are reproduced below;

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"5. XXXXXX
XXXXXX

In nutshell, in view of the observations made above, it is concluded that since Section 33(5) of the IBC, speaks about new institution or litigations and not of the one instituted prior to order of liquidation, as the case in hand is, the initiation of liquidation proceedings against the present Corporate Debtor, would not debar the decree holder from pursuing the present execution filed prior to order dated 01.10.2024, provided he had not approached the IRP under Section 14 of the IBC to claim for the amount due against the corporate debtor. Since, the decree holder has admittedly processed his claim for the amount due as per the IBC Code, this Forum cannot in the given circumstances allow the decree to proceed further with the present execution as the decree holder cannot pursue two separate remedies in respect of the same claim. It is not out of place to mention here that this Forum has no legal authority to direct the Competent Authority dealing with his claim under IBC, not to proceed with the same to enable the decree holder to pursue present execution before this Forum.

6. As sequel to above mentioned findings, in the interest of justice, this Forum decides to give an opportunity to the decree holder to enable him, to get an order of the Hon'ble NCLT at Delhi, as per the provisions of IBC, 2016, if so permissible, to enable him to withdraw his claim made under provisions of IBC, to continue with the present execution before this Forum. It is made clear that if on the next date of hearing no such order is received because of one reason or the other, this Forum will not allow the decree holder to continue with the parallel recovery proceeding for the same claim before this Forum in execution.

7. On request, now to come up on 05.09.2025 for having an order of Hon'ble NCLT or any other Higher Judicial Forum, which permits continuation of the present execution

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failing which this Forum shall be disposing of the execution on the ground that two parallel proceedings for recovery of the same amount cannot run simultaneously."

2. In response to the query raised, the decree holder has moved an application in writing to claim that there is difference between Section 14 and Section 33(5) of the Insolvency and Bankruptcy Code, 2016, to say that the liquidation proceedings will not adversely affect his right to continue with present execution petition as was filed prior to initiation of liquidation proceedings wherein recovery certificate was also issued to District Collector, Yamunanagar and auction and attachment proceedings were at final stage. It is also averred in the application that the decree holder a senior citizen and retired banker ~~who~~ is contesting the case for the last 18 years without getting the fruits of order under execution and even if the execution before this Forum is fully satisfied, it would be in the public domain to let the Authority connected with moratorium or liquidation to know that claim filed before it stands finally settled, because before Hon'ble NCLT and this executing Forum the creditor and the debtor are the same. It is also averred in the application that for the last 3 years, the liquidation proceedings have not resulted into any fruitful results and the chances of recovery through that mode is very dim and negligible, so the action under present execution petition be initiated in accordance with law to recover his amount.

3. The decree holder appearing in person through video conferencing has reiterated the contents of his application while arguing in support thereof.
4. None has appeared on behalf of judgment debtor but no adverse order is passed against it for absence because of pendency of proceedings under the Code of Insolvency and Bankruptcy.
5. This Forum having heard the decree holder, a senior citizen, in person and gone through its previous order, is still of the view that decree holder cannot have his two claims for the same amount simultaneously i.e. one before the IRP and another before this Forum. Undoubtedly, liquidation proceedings as held in previous order, do not adversely affect pending proceedings in execution for recovery of the amount but certainly no law permits a creditor or decree holder to run two parallel proceedings for recovery of the same amount. It is not out of place to mention here that having regards to the old age of decree holder and his contention raised, this Forum had given an opportunity to him to withdraw his claim raised in the proceedings before NCLT, if so legally permitted, but today instead of placing on record such proof, he has simply re-agitated the same contentions which were raised on the last date of hearing which ultimately did not find favour from this Forum on that date also. Consequently, in view of the legal and factual position on record, this Forum disposed off this execution petition being not maintainable in the facts and circumstances of the present case. However, decree holder would be at liberty to

file execution afresh subject to prevalent law on the subject, if permissible, on completion of proceeding before Hon'ble NCLT with regard to his claim.

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


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MAJOR PHALIT SHARMA
ADSJ (Retd.)
ADJUDICATING OFFICER
30.10.2025

Indu Yadav
Law Associate

