HARYANA REAL ESTATE REGULATORY AUTHORITY PANCHKULA

Website: www.haryanarera.gov.in

Execution No. 1222 of 2023

In

Complaint No. 776 of 2022

Dhiyan Singh ....DECREE HOLDER

VERSUS

M/s CHD Developers Ltd. ....JUDGMENT DEBTOR

Date of Hearing: 15.12.2025

Hearing: 12th

Present: Adv. Viren Jain, counsel for the decree holder through VC.

None for the judgment debtor.

ORDER : (NADIM AKHTAR-MEMBER)

1. Vide order dated 01.12.2025, certain directions were given to both the parties. Relevant portion of the said order is reproduced below:

> *"4. Authority grants last opportunity to the decree holder to file the application to show as to how the proceedings in this execution could be continued despite claim of judgment debtor company of declaration of moratorium as per the contents of affidavit of IRP.*

*which prohibits present execution, on or before **10.12.2025**, on the failure of which the matter will be dismissed for non-prosecution.*

*5. Ld. counsel for IRP is directed to file power of attorney and copy of affidavit as well as additional affidavit along with list of claimants who have raised their claim after declaration of moratorium, on or before **10.12.2025**. This shall be the last opportunity."*

2. As per office report, neither of the parties have made compliance till date, despite giving various opportunities to both the parties.

3. During the course of hearing, none appeared for the decree holder. However, later Adv. Viren Jain appeared and requested the Authority to mark his presence. His request is accepted. He further submitted that despite the directions issued by this Authority in last orders dated 20.05.2025 and 01.12.2025, the IRP/ Judgment Debtor has failed to file the affidavit along with the list of claimants who have raised their claim before the Hon'ble NCLT after the declaration of moratorium. It was contended that the said non-compliance is deliberate. He further submitted that a decree has already been passed in favour of the complainant/ decree holder, therefore, there was no necessity for the decree holder to file an application, rather the burden to demonstrate the effect and applicability of moratorium lies upon the Judgment Debtor/ IRP. Upon perusal of record it is revealed that no vakalatnama/power of attorney has been placed on record in the name of Adv. Viren Sharma on

behalf of the answering judgement debtor. Hence, his presence is not being marked.

4. Authority observes that in the matter of CP(IB)-1081(PB) of 2020 titled as Rajeev Kumar & Ors. v. M/s. CHD Developers Ltd. passed by the Hon'ble National Company Law Tribunal, New Delhi, a moratorium under Section 14 has been declared. For ready reference, the relevant order passed on dated 05.09.2022 by Hon'ble NCLT, New Delhi are reiterated below :

"40. As the applicant(s) in CP. No. (IB) - 1775(PB)/2018 has aligned in support of the PIRP whereas the applicant in CP. No (IB) - 1081(PB)/2020 has opposed the nomination of IRP by the applicant(s) in CP. No. (IB) -1775(PB)/2018, we deem it appropriate to appoint the IRP from the panel provided by IBBI. Accordingly we appoint Mr. Rajesh Kumar Parakh having registration No. IBBI/IPA-001/IP-P00272/2017-18/10516 having email i.d. parakh.rajesh@gmail.com mobile no. 9811350848 as IRP. Mr. Rajesh Kumar Parakh, proposed IRP is directed to file his written consent in terms of Rule 9(1) of Insolvency and Bankruptcy (Application to Adjudicating Authority) Rules, 2016 forthwith.

41. In pursuance of Section 13 (2) of the Code, we direct that Interim Insolvency Resolution Professional to make public announcement immediately with regard to admission of this application under Section 7 of IBC. The expression 'immediately' means within three days as clarified by Explanation to Regulation 6 (1) of the IBBI (Insolvency Resolution Process for Corporate Persons) Regulations, 2016.

42. As a consequence of the application being admitted in terms of Section 7 of IBC, 2016 moratorium as envisaged under the provisions of Section 14(1) of IBC shall follow in relation to the Respondent as per sub clauses (a) to (d) of section 14(1) of the IBC. However, during the pendency of the moratorium period, terms of Section 14(2) to 14(3) of the IBC shall come in force."

5. In view of initiation of CIRP proceedings against the present judgment debtor, i.e., M/s CHD Developers Ltd., any further proceedings in execution would be against spirit of Section 14 of the IBC,2016 as it is the IRP appointed therein to do needful further in accordance with law. It is also pertinent to mention here that there is no provision to keep such proceedings pending till CIRP proceedings culminate as no period could be laid for the same. In fact 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 mandated to declare a moratorium on continuation or initiation of any coercive legal action against the Corporate Debtor". However, prima facie findings of prohibition of execution against judgment debtor, a corporate entity, of this Authority are open to correction in view of law settled by Hon'ble Apex Court in P. Mohanraj & Ors. v/s M/s Shah Brother 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.

6. Considering that the CIRP proceedings may continue for a substantial period of time and the statutory bar imposed under Section 14 of the Insolvency and Bankruptcy Code, 2016, this Authority is precluded from proceeding with or adjudicating any execution petition against the present judgement debtor. In these circumstances, it is observed that it will be in the better interest of the decree holder to pursue his claim before the National Company Law Tribunal as opposed to pursuing present execution.
7. In view of the aforementioned observations, execution petition is **disposed of** without getting into merits with a liberty to the decree holder to file fresh execution at the appropriate stage.

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

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NADIM AKHTAR
[MEMBER]