



HARYANA REAL ESTATE REGULATORY AUTHORITY PANCHKULA

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Complaint no:	1241 of 2021
Date of filing:	23.11.2021
First date of hearing:	11.01.2022
Date of decision:	20.07.2026

Shilpi Gupta

W/o Sh. Puneet Gupta

R/o House no. 1, road no. 20,

East Punjabi Bagh, Delhi-110026

....COMPLAINANT

VERSUS

M/s Parsvnath Developers Ltd.

6th Floor, Arunachal Building, 19,

Barakhamba Road, New Delhi 110001

And Parsvnath Tower, near Shahdara Metro Station,

Shahdara, Delhi 110032

.....RESPONDENT

Present: None for the Decree holder.

Mr. Pranay Malhotra, authorised representative for IRP through VC.

ORDER (NADIM AKHTAR-MEMBER)

1. Mr. Pranay Malhotra appeared before the Authority and submitted that a moratorium has been imposed upon the company and that he has been duly authorised to appear in the captioned complaint by IRP. The authorisation letter in this regard has already been submitted before the Registry. It was further apprised to the Authority that in view of the moratorium being imposed, no further proceedings can be continued against the judgment debtor at this stage.
2. Learned counsel for the decree holder submitted that the learned Authority had already adjudicated the matter on merits and passed the final judgment in Complaint No. 260 of 2019, titled "Pawan Kumar Rana vs. Prabhu Shanti Real Estate Pvt. Ltd.", notwithstanding the fact that a moratorium had been initiated against the builder. It was, therefore, contended that the present matter may also be proceeded with and decided on merits, despite the subsistence of the moratorium.
3. With regard to the above objection of the judgment debtor. Authority observes that, it would be against the spirit of Section 14 of the Code, 2016 and the law on the subject to proceed with present execution petition against the judgment debtor company any more, more so when there is no provision to keep such execution petition 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". These findings of prohibition of bar of complaint against respondent 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 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.

4. This Authority has verified the factum of the moratorium imposed upon the company. It is an admitted position that vide order dated 30.04.2026 in **CP (IB) No. 468/PB/2024** titled **Sammaan Capital Ltd. Vs. Parsvnath Developers Limited**, the Corporate Debtor, namely Parsvnath Developers Limited, has been admitted into the Corporate Insolvency Resolution Process (CIRP) and a moratorium under Section 14 of the Insolvency and Bankruptcy Code, 2016 has been imposed. The relevant para of the said order is reproduced below for reference:-



"39. Accordingly, moratorium as provided under Section 14 of IBC, 2016 is declared qua the CD and as a necessary consequence thereof the following prohibitions are imposed, which must be followed by all and sundry:

- a) The institution of suits or continuation of pending suits or proceedings against the Respondent including execution of any judgment, decree or order in any court of law, tribunal, arbitration panel or other authority;*
- b) Transferring, encumbering, alienating or disposing of by the Respondent any of its assets or any legal right or beneficial interest therein;*
- c) Any action to foreclose, recover or enforce any security interest created by the Respondent in respect of its property including any action under the Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002;*
- d) The recovery of any property by an owner or lessor, where such property is occupied by or in the possession of the Respondent".*

This issue was duly acknowledged by both the ld. counsels appearing in the matter.

5. It is pertinent to note that the said order prohibits the institution or continuation of any suits or proceedings against the Corporate Debtor, including execution of any judgment, decree, or order before any court of law, tribunal, arbitration panel, or other authority. Thus, the bar under Section 14 squarely applies to the proceedings pending before this Authority.
6. At this juncture, it would be relevant to place reliance on the case of *Sundaresh Bhatt, Liquidator of ABG Shipyard v. Central Board of Indirect Taxes and Customs*, Civil Appeal No. 7667 of 2021, wherein



Hon'ble apex court has elaborately explained the object and scope of moratorium. In paragraph 36, the Hon'ble Court observed as under:

"36. One of the purposes of the moratorium is to keep the assets of the Corporate Debtor together during the insolvency resolution process and to facilitate orderly completion of the processes envisaged under the statute. Such measures ensure the curtailing of parallel proceedings and reduce the possibility of conflicting outcomes in the process."

Further, in paragraph 35, it was held:

"35. When the insolvency process commences, the adjudicating authority is mandated to declare a moratorium on the continuation or initiation of any coercive legal action against the Corporate Debtor."

The Hon'ble Supreme Court has also expressly recognised the central statutory role of the Interim Resolution Professional during CIRP. In paragraph 34(iii) of the said judgment, following observation has been made-

"(iii) The NCLT first appoints an interim insolvency professional. The interim insolvency professional is to hold office until a resolution professional is appointed. He further takes control of the Corporate Debtor's operations and collects its financial information from information utilities. The NCLT must also ensure public announcement of the initiation of corporate insolvency process and call for submission of claims."

7. Therefore, it is evident that continuation of parallel proceedings before any other forum during the subsistence of the moratorium would defeat the very object of the Insolvency and Bankruptcy Code, 2016. Accordingly, this



Authority is bound to give full effect to the statutory mandate of Section 14 of the Code and refrain from proceeding further in the present matter during the pendency of the CIRP, in adherence to principle of judicial propriety

8. Further, it would be necessary to place reliance on section 14 (1)(a) of IBC which specifically prohibits the institution of suits or continuation of pending suits or proceedings against the corporate debtor/respondent including execution of any judgment, decree or order in any court of law, tribunal, arbitration panel or other authority. Relevant paragraph of section 14 of IBC is being reproduced below-

"Section 14: Moratorium-

14. (1) Subject to provisions of sub-sections (2) and (3), on the insolvency commencement date, the Adjudicating Authority shall by order declare moratorium for prohibiting all of the following, namely:—

(a) 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, tribunal, arbitration panel or other authority;

(b) transferring, encumbering, alienating or disposing of by the corporate debtor any of its assets or any legal right or beneficial interest therein;

(c) any action to foreclose, recover or enforce any security interest created by the corporate debtor in respect of its property including any action under the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002;

(d) the recovery of any property by an owner or lessor where such property is occupied by or in the possession of the corporate debtor."

A handwritten signature in blue ink, appearing to be 'Jas', with a horizontal line drawn underneath it.

9. On a bare reading of the provision, it is clear that the language of the provision is peremptory and admits of no discretion. Once the moratorium is declared, all proceedings against the Corporate Debtor must remain stayed. The Hon'ble Supreme Court in *Alchemist Asset Reconstruction Company Ltd. v. Hotel Gaudavan Pvt. Ltd.*, 2017 SCC OnLine SC 1362 , authoritatively held that once a moratorium under Section 14 is declared, even arbitration proceedings cannot continue and any continuation would be without jurisdiction. The principle applies with equal force to proceedings before statutory authorities.
10. Further, in *Innoventive Industries Ltd. v. ICICI Bank*, (2018) 1 SCC 407, the Hon'ble Supreme Court emphasised that upon admission of insolvency proceedings, the management of the Corporate Debtor vests in the Interim Resolution Professional and the statutory scheme under the IBC overrides inconsistent provisions by virtue of Section 238 of the Code. The overriding effect of the IBC has been reiterated in *Principal Commissioner of Income Tax v. Monnet Ispat & Energy Ltd.*, (2018) 18 SCC 786, wherein it was held that Section 238 of the IBC will prevail over any other enactment in case of inconsistency.
11. The Authority observes that once a moratorium under Section 14 of the Insolvency and Bankruptcy Code, 2016 has come into operation against the



corporate debtor, continuation of coercive proceedings, including execution proceedings, is impermissible during the subsistence of the Corporate Insolvency Resolution Process (CIRP). The Hon'ble Supreme Court in ***Pioneer Urban Land and Infrastructure Ltd. v. Union of India*** (Writ Petition (Civil) No. 43 of 2019) has held that the Insolvency and Bankruptcy Code, 2016 and the Real Estate (Regulation and Development) Act, 2016 are intended to co-exist and provide concurrent remedies to homebuyers. However, in the event of any inconsistency or conflict between the two enactments, the provisions of the IBC shall prevail by virtue of the overriding effect of Section 238 thereof. Further, in ***P. Mohanraj & Ors. v. Shah Brothers Ispat Pvt. Ltd.***, (2021) 6 SCC 258, the Hon'ble Supreme Court authoritatively held that the moratorium under Section 14 prohibits the continuation or institution of proceedings having a coercive or recovery character against the corporate debtor. The aforesaid principle has also been reiterated in ***Anjali Rathi & Others v. Today Homes and Infrastructure Pvt. Ltd.***, 2021 SCC OnLine SC 729, wherein it was recognized that proceedings under RERA cannot be permitted to defeat or circumvent the statutory moratorium under the IBC. In view of the settled legal position, this Authority is of the considered opinion that continuation of the present execution proceedings against the judgment debtor company during the subsistence of



the moratorium would be contrary to the mandate of Section 14 of the Insolvency and Bankruptcy Code, 2016. Accordingly, no further coercive steps can be undertaken against the corporate debtor so long as the moratorium remains in force.

12. The insolvency framework under the IBC is a collective proceeding in rem. It seeks resolution of the Corporate Debtor/respondent as a going concern or its liquidation in an orderly manner, balancing the interests of all stakeholders. *Allowing parallel adjudication before this Authority would not only contravene the statutory moratorium but would also defeat the objective of a time-bound and consolidated insolvency process.*
13. The Authority, in its Full Bench decision rendered in Execution Petition No. 681 of 2024, titled ***Vishisht Capital Services Pvt. Ltd. v. Parsvnath Developers Ltd.***, has also taken a similar view and, on the basis thereof, disposed of the said execution petition.
14. This Authority, though vested with adjudicatory powers under the RERA Act, cannot act in derogation of a subsisting moratorium declared by the NCLT. The statutory command under Section 14 of the IBC leaves no scope for continuation of proceedings. In view of the admission of insolvency proceedings against the respondent Corporate Debtor and the moratorium



presently in force, this Authority lacks jurisdiction to proceed further in the matter.

15. Accordingly, the present complaint is **disposed of** as it cannot be proceeded with further. Files be consigned to the record room after uploading of this order on the website of the Authority.



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NADIM AKHTAR
[MEMBER]