

NATIONAL COMPANY LAW APPELLATE TRIBUNAL
NEW DELHI

Company Appeal (AT) (Ins) No.238 of 2019

IN THE MATTER OF:

True Value Homes (India) Pvt. Ltd.

...Appellant

Versus

Infinitas Energy Solutions Pvt. Ltd.

...Respondent

Present:

**For Appellant: Shri Nikhil Nayyar, Sr. Advocate with Shri
 Divyanshu Rai, Advocates**

**For Respondent: Shri Chitranshul Sinha and Shri Anshuman
 Chaturvedi, Advocates**

O R D E R

06.08.2019 The Appellant filed Miscellaneous Application under Section 60(5) of the Insolvency and Bankruptcy Code, 2016 (I&B Code) with following prayers:-

“The Applicant, prays that, in the interest of justice and equity, the Hon’ble Bench may be pleased to pass orders:

- a) *directing the Resolution Professional to*
 - i) *not include the said property as part of the assets of the Respondent and thus should not for part of the Resolution Plan:*
 - ii) *Register a Deed of Rectification in respect of the Sale Deed dated so as to enable the Applicant or a person nominated by it, to become the owner of the same, by virtue of*

the Applicant having paid in full to the Respondent the consideration of the property by repayment of the loans due to ICICI Bank (that was borrowed by the Respondent) including the undivided share of land that has been registered in favour of the Respondent;

iii) Register the property, either in favour of the Applicant or a person nominated by it, by virtue of True Value Homes Limited having paid in full the consideration for the property by repayment of the loans due to ICICI Bank (that was borrowed by the Respondent);

b) Pass such further or other orders as this Hon'ble Tribunal may deem fit under the circumstances of the case and thereby render justice”.

The Impugned Order held that the Application under Section 60(5) was not maintainable in absence of any provision of law to Order registration of deed of Ratification of Sale Deed. More than 180 days have passed. According to the Counsel for the Appellant, the property in question was buy back by the Appellant from the Corporate Debtor and did not belong to the Corporate Debtor which has also been accepted by Resolution Professional. It is submitted that the Adjudicating Authority (National Company Law Tribunal, Chennai) while passing the Impugned Order, has not taken into consideration the aforesaid stand taken by the Resolution Professional.

Learned Counsel appearing on behalf of Liquidator submitted that subsequent to the Impugned Order dated 25th January, 2019, order of liquidation has been passed on 6th February, 2019. In the facts of circumstances, we are not deliberating on the issue as the Liquidator is to take a call and decision on the issue taking into consideration the decision, if any already taken by the Resolution Professional, which is not under challenge. The Liquidator is directed to pass appropriate order, if any application is filed by the Appellant, taking into consideration the decision of the Resolution Professional and other records within 3 weeks from the date of receipt of such Application. The Impugned Order dated 25.01.2019 will not come in the way of Appellant or the Liquidator for deciding the issue, the Adjudicating Authority having not passed any Order under Section 60(5) of the I&B Code.

The Appeal stands disposed of with aforesaid observations.

No cost.

[Justice S.J. Mukhopadhaya]
Chairperson

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

[Kanthi Narahari]
Member (Technical)

/rs/sk