

NATIONAL COMPANY LAW APPELLATE TRIBUNAL, NEW DELHI
Company Appeal (AT) (Insolvency) No. 304 of 2018

IN THE MATTER OF:

Raj Builders

...Appellant

Vs

Raj Oil Mills Limited & Anr.

...Respondents

Present:

For Appellant: Mr. Rahul Chitnis, Mr. Aaditya A Pande, Mr. Om Prakash Parihar and Mr. Himanshu Desai, Advocates.

**For Respondents: Mr. Rajesh Bohra, Mr. Aditya Narayan and Mr. Uzair Kazi, Advocates.
Mr. Bharat Sangal, Mr. Vikram Trivedi, Ms. Suchitra Valjee and Ms. Babita Kushwaha, Advocates for R-3.**

ORDER

08.08.2018: The Appellant, the landlord of the registered office of 'Raj Oil Mills Ltd.' (Corporate Debtor) has challenged the order dated 19th April, 2018 passed by the Adjudicating Authority (National Company Law Tribunal) Mumbai Bench, whereby the Adjudicating Authority approved the resolution plan which was earlier approved by the Committee of Creditors. The grievance of the Appellant is that though the period of agreement for tenancy has come to an end and the Corporate Debtor had technically was required to hand over the possession of the premises, but the possession of the premises has not handed over to the Appellant

2. We have heard learned counsel for the Appellant and the Respondents and perused the records.

3. In terms of Section 14 of the Insolvency and Bankruptcy Code, 2016, during the period of moratorium the Appellant cannot evict the Corporate Debtor from the premises in question, even if during period of moratorium they have agreed to vacate it. The period of moratorium has come to an end on 19th April,

2018 i.e. date of approval of resolution plan under Section 31, therefore, now it is open to the Appellant to get the Corporate Debtor evicted, if it is still in occupation, in accordance with law. However, as the Adjudicating Authority is not competent authority to pass any order for eviction, Adjudicating Authority rightly not passed any such order.

4. We make it clear that observations aforesaid should not be construed to be for finding that the Appellant is the Land lord or the Corporate Debtor is the Tenant of the premises, which can be decided by a court of competent jurisdiction. Appeal stands disposed of with aforesaid observations. No cost.

[Justice S. J. Mukhopadhaya]
Chairperson

[Justice Bansi Lal Bhat]
Member (Judicial)

am/sk