

NATIONAL COMPANY LAW APPELLATE TRIBUNAL, NEW DELHI

Company Appeal (AT) (Insolvency) No. 618 of 2019

IN THE MATTER OF:

G.R.K. Reddy Appellant

Vs

ICICI Bank Limited & Ors. Respondents

Present:

For Appellant: Mr. Virender Ganda, Senior Advocate with Mr. Nithin Pavoluri, Mr. M.V. Rama Krishna, Mr. Ayandeb Mitra, Mr. Vishal Ganda and Mr. Anand Singh Sengar, Advocates.

For Respondents: Mr. E. Omprakash, Senior Advocate with Mr. D. Srinivasan and Ms. Madhusmita Bora, Advocates for Respondent No.1.

Mr. Vasudevan, Resolution Professional.

Mr. K. Moorthy, Advocate for Respondent No.2.

Mr. Shambo Nandy, Advocate for Intervener.

ORDER

07.08.2019 Mr. Virender Ganda, learned Senior Counsel appearing on behalf of the Appellant/ Promoter submits that the Appellant has already settled the matter with the ICICI Bank ('Financial Creditor'), who triggered the proceedings under Section 7 of the Insolvency and Bankruptcy Code, 2016 (for short 'I&B Code'). Mr. E. Omprakash, learned Senior Counsel appearing on behalf of ICICI Bank submits that settlement though reached, but amount is yet to be paid by the Appellant.

Mr. Shambo Nandy, Counsel filed an Intervention Application and claims to be one of the 'Financial Creditor'. According to him, a sum of Rs.271 crores has been claimed by him before 'Resolution Professional'. Mr. Shambo Nandy, Counsel for the Intervener is allowed to serve a copy of the Intervention Application on learned Counsel for the Appellant.

Taking into consideration the aforesaid position that the other Creditors have already filed application and now more than two months have passed, since interim order was passed, we vacate part of the interim order relating to stay and allow the 'Interim Resolution Professional' to constitute the 'Committee of Creditors'. However, this order will not come in the way of the Appellant to settle the matter with all the creditors and may derive the benefit of Section 12A of the I&B Code by proposing the terms of settlement for all the 'Financial and Operational Creditors' and other stake holders. If any such proposal is submitted, the 'Interim Resolution Professional' will call for a meeting of the 'Committee of Creditors' and place the matter before it for consideration in accordance with Section 12A. If the 'Committee of Creditors' approves the proposal with 90% of voting shares, it will be open to the ICICI Bank to move an application before the Adjudicating Authority for withdrawal of the application under Section 7.

For the purpose of the abovesaid procedure, we allow two weeks' time to the Appellant to submit the proposal before the 'Interim Resolution Professional', who immediately on constitution of 'Committee of Creditors', will place the matter before it and the 'Committee of Creditors' is expected to decide it within two weeks thereof. On failure, this Appellate Tribunal may consider the case on merit.

Post the case for orders on **6th September, 2019**.

In the meantime, as ordered above, the 'Interim Resolution Professional' will constitute the 'Committee of Creditors' and ensure that the Company remains a going concern and follow other directions as given by way of interim order passed on 6th June, 2019.

[Justice S. J. Mukhopadhaya]
Chairperson

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

[Kanthi Narahari]
Member (Technical)

Ash/GC