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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

\+ W.P.(C) 4457/2015 & CM Appl. 8080/2015

ERA INFRA ENGINEERING LIMITED ..... Petitioner

Through: Mr. Vineet Tayal, Adv.

versus

LIFE INSURANCE CORPORATION OF INDIA & ORS.

..... Respondents

Through: Mr. I.P.S. Oberoi, Adv. for R-1 to 3

CORAM:
HON'BLE MR. JUSTICE MANMOHAN

ORDER

% **16.03.2016**

The present writ petition has been filed primarily seeking exclusion of the petitioner's name from the defaulter's list and for executing the master restructuring agreement to implement the Corporate Debt Restructuring (for short 'CDR') package.

Learned counsel for the petitioner states that respondent Nos. 1 to 3 cannot refuse to implement the CDR package as they had been part of it right from inception. He further states that once 18 out of 22 lenders who constitute 81.82% of the total lenders and constitute 97.79% in terms of financial assistance/exposure have implemented the CDR package, then the refusal on the part of respondent No. 3 to implement the CDR restructuring package is illegal. He also states that as per the Inter-Creditor agreement, it is not open to respondent No. 3 to refuse implementation of CDR package or to refuse execution of master restructuring agreement.

On the other hand, in the counter-affidavit filed by respondent no. 1 it is stated that answering respondent is ready to participate in the CDR package and implement the same in respect of dues of Rs. 40 crores being subscription to the Non-convertible Debentures (for short (NCDs) of the petitioner-company if the pending additional interest at the rate of 2% on Rs. 75 crores is paid to the company and further if the defaulted overdue on the cut-off of CDR package of the NCDs of Rs. 40 crores is cleared. Respondent no. 1 also seeks parity in respect of payment/redemption of NCDs with other lender banks/financial institutions.

Respondent no. 3 in its counter-affidavit has pointed out that it is not a member of the CDR forum and that it did not participate in the restructuring of the petitioner's debt under the aegis of CDR Cell. It is also stated that respondent no. 3 neither conveyed its approval for restructuring of its outstanding dues of Rs. 20.20 crores with interest nor executed any agreement in respect of restructuring of the petitioner's debt. It is further stated that respondent no. 3 continues to request the petitioner for payments of its dues with interest on the ground that it is a Fund Manager for pension fund schemes for NPS and the money held in trust by NPS Trust belongs to thousands of employees of Central Government and State Government who have contributed their superannuation/ retirement benefits and that any default of dues by the petitioner would lead to non servicing to investments of the said employees.

Learned counsel for petitioner disputes the aforesaid contentions.

However, the admitted position is that due to default in payment of interest due from 27th February, 2014 and final redemption of principle due on 27th November, 2014, the company has been classified as NPA.

In the opinion of this Court, a high prerogative discretionary remedy cannot be used to get a CDR package executed or implemented. After all, no petitioner can have a legal right leave alone a fundamental right that the respondents must either waive loan or make sacrifices with regard to the interest component. Consequently, this Court is of the view that if the petitioner has any grievance, it should agitate it in a regular forum, that is available in accordance with law.

With the aforesaid observations, present writ petition and application are dismissed.

It is clarified that the observations made in the present writ petition are only in the context of adjudication of the present writ petition and the said observations shall not be relied upon by either party during adjudication by a competent/regular forum.

MANMOHAN, J

MARCH 16, 2016
NG/rn