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

\+ W.P.(C) 3918/2020

N.K. ARORA .....Petitioner

Through: Mr Pratiti Rungta, Advocate.

versus

DEEPRAJ INVESTMENTS & ANR.. ..... Respondents

Through: Mr Sushil Aggarwal, Advocate for R-1.

Mr Kapil Kher, Advocate for R-2.

**CORAM:**
**HON'BLE MR. JUSTICE NAJMI WAZIRI**

**<u>O R D E R</u>**

**%** **06.07.2020**

1. The hearing was conducted through video conferencing.

<u>CM APPLN. 14013/2020 (Exemption)</u>

2. Exemption allowed, subject to all just exceptions.

3. The applications stand disposed-off.

<u>W.P.(C) 3918/2020 & CM APPLN. 14012/2020 (Stay)</u>

4. The petitioner contends that for an application to be filed before the NCLT, prior consent of R-1-- the creditor is necessary and without it he is remediless, therefore this writ petition. Even before notice could be issued, the learned counsel for the parties had sought time to explore the possibility of an amicably settlement of the *lis*. They submit that pursuant to the last date, the parties have spoken to each other and settled the *lis* amicably, whereunder the total amount payable by the petitioner to respondent no.1 is Rs.1.47 crores; it shall be paid by the petitioner to R-1 in the following manner:

(i) Rs.30 lacs shall be paid on or before 25.07.2020;

(ii) Another amount of Rs.30 lacs will be paid on or before 31.08.2020; and

(iii) The remaining amounts shall be paid in equal instalments within three months thereafter.

5. According to the learned counsel for the petitioner, although a public notice issued by the IRP had invited the claims against the company by 22.06.2020, to the petitioner's knowledge, thus far no other claims have come forth. Therefore, the only known creditor, is respondent no.1, with whom the aforesaid settlement has been arrived at. Mr Aggarwal, the learned counsel for respondent no. 1 submits that there is a monthly rental revenue of Rs.5 lacs being received by the petitioner from a property located in Gurgaon. The petitioner undertakes that the said rental shall henceforth be paid directly to respondent no.1. The petitioner's bank shall be instructed that the moment the said money reaches the petitioner's account, it shall automatically be transferred into the account of respondent no. 1. The petitioner's instructions in this regard to his Bank and the latter's confirmation about the same, shall be intimated to respondent no.1 and respondent no. 2 within a period of one week from today.

6. Apropos payment of the first instalment of 30 lacs, the petitioner undertakes to pay Rs.5 lacs as on 08.07.2020 and the other Rs.5 lacs will be transferred to the account of respondent no.1 between 15$^{th}$ and 20$^{th}$ of July, 2020, which is the period when the aforementioned rent regarding the Gurgaon property is ordinarily received. The remaining Rs.20 lacs shall be paid on 25.07.2020. The subsequent amounts shall be paid in terms of the scheme stated hereinabove. The parties agree

that till then, the company shall be run through the IRP with the assistance of the previous management.

7. In view of the above, the learned counsel for respondent no.1 submits that he is agreeable to the suspension of the COC till the entire payment is made. The learned counsel for respondent no. 2 also agrees to the same. However, in case any application or any other claims are received by IRP in the interregnum, the same shall be put to the petitioner for appropriate response. The learned counsel for the respondent no.2 submits that in view of the above, he would be moving an application/taking steps for suspension of the COC which is due to be held on 08.07.2020. The learned counsel for respondent no.1 too submits that corollary steps regarding non-holding of the COC will be initiated immediately.
8. In case of default of payment, either in terms of the quantum or the dates fixed for making due payments, the COC will become operational and it will be open to the IRP to continue the proceedings as per law. Mr Aggarwal states, upon instructions, that once the entire payment is made, respondent no.1 shall withdraw all pending proceedings against the petitioner.
9. It is agreed between the parties that the petitioner is not liable to pay any amount beyond Rs.1.47 crores, along with accruing interest on the reducing balance and in the manner as agreed hereinabove. The charges/fees payable to the IRP shall be borne by respondent no.1.
10. Let an undertaking in terms of this order be filed by the petitioner within a period of three days from today, with advance copy to learned counsel for the respondents, through their respective counsel

as well.

11. The petition along with pending application stands disposed-off in terms of the above.

12. The order be uploaded on the website forthwith. Copy of the order be also forwarded to the counsels through email.

**NAJMI WAZIRI, J**

**JULY 06, 2020/*rd***