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

+ **OMP (ENF.) (COMM.) 75/2019**

M/S SUKHMANI TECHNOLOGIES PVT. LTD. Decree Holder
Through: None.

versus

M/S UNNATI FORTUNE HOLDINGS LTD. & ANR.

..... Judgement Debtors
Through: Mr. Kanishk Khetan, Adv.

CORAM:

HON'BLE MS. JUSTICE REKHA PALLI

ORDER

% 27.01.2020

1. Despite passover, none appears for the decree holder.
2. On the last date, this Court was informed that after the filing of the present petition, on 03.05.2019, Mr. Sanjay Gupta had been appointed as the Insolvency Resolution Professional for the Decree Holder by the National Company Tribunal on 27.03.2019. Court notice was, therefore, issued to Mr. Sanjay Gupta.
3. Today, Mr. Kanishk Khetan, Advocate appears on behalf of Mr. Sanjay Gupta and submits that the present petition seeking execution of the Award dated 30.07.2018 was filed after the appointment of Mr. Gupta as the Insolvency Resolution Professional, which was not permissible in view of the bar under Section 14 (1) (a) of the Insolvency and Bankruptcy Code, 2016. He further submits that the moratorium is still in force and therefore contends that the present petition is not maintainable and is liable to be dismissed.

4. Though none appears for the Decree Holder despite passover, the factum of Mr. Sanjay Gupta having been appointed on 27.03.2019 has already been noted in this court's order dated 30.10.2019 and therefore it is evident that the moratorium in terms of Section 14 of the Insolvency and Bankruptcy Code had already set in with effect from 27.03.2019 when the present petition came to be filed by the Decree Holder on 03.05.2019.

5. The petition is accordingly dismissed as not being maintainable. It is, however, made clear that the dismissal of the present petition will not bar the Decree Holder from filing an execution petition subsequently, if the need so arises, after the expiry of the period of moratorium.

REKHA PALLI, J.

JANUARY 27, 2020

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