$~6(original side)

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

Decided on 14th August, 2020

\+ CS(COMM) 1020/2018 and IA 6910/2020

ICICI BANK UK PLC ..... Plaintiff

Through: Mr. Manu Nair, Adv.

versus

ANSHU JAIN & ORS. ..... Defendants

Through: Mr. Sanjiv Kakra, Mr. Mayank Bhargava and Mr. Arjun Narang, Advs. for defendant nos. 1 and 2
Mr. R. Jawahar Lal, Mr. Siddharth Bawa and Mr. Anuj Garg, Advs. for defendant no.3

CORAM:
HON'BLE MR. JUSTICE C. HARI SHANKAR

JUDGEMENT (ORAL)

% **14.08.2020**
(Video-Conferencing)

1. I.A. 6910/2020 is an application, filed by Defendant No. 2 - the ICICI Bank Ltd. Mr. Manu Nair, Advocate appears for the plaintiff. Mr. Sanjiv Kakra, Advocate appears on behalf of the Defendant nos. 1 and 2. Mr. Anuj Garg, Advocate appears for the Defendant no. 3.

2. CS(COMM) 1020/2018, in which the present application has been filed, was preferred by the plaintiff, for a decree of permanent injunction against Defendant No. 3 i.e. M/s. Aditya Estates Private Limited), from dealing, in any manner, with the property, situated at Plot No. 3, Bhagwan Das Road, New Delhi – 110001 (hereinafter referred to as the "suit property"). The civil suit is pending before this Court, and the next date of hearing, fixed in the matter, is 16th September, 2020.

3. *Vide* order, dated 17th July, 2018, this Court directed the maintenance of *status quo*, in respect of possession of the suit property. The said interim order continues to operate till date.

4. In the interregnum, the present applicant (i.e. ICICI Bank Ltd., Defendant No. 2 in the suit), invoked Section 13(4) of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (hereinafter referred to as the "SARFAESI Act"), against the suit property, which stood mortgaged by Defendant No. 3 in favour of M/s. Duncan Macneill India Power Ltd. Aggrieved, the Defendant no. 3 moved the learned Debts Recovery Tribunal (hereinafter referred to as "the learned DRT"), by way of SA 118/2018 (***Aditya Estates Pvt. Ltd. v. ICICI Bank Ltd.***). No interim injunction was granted by the learned DRT, as a result whereof ICICI Bank Ltd., the present applicant, took physical possession of the suit property on 8th June, 2018.

5. SA 118/2018 was disposed by the learned DRT *vide* order, dated 23rd July, 2018, which also disposed of Original Application 742/2016 (***ICICI Bank Ltd. v. M/s. Duncan Macneill Power India Ltd. & Ors.***). This order was assailed, by the applicant, before the learned Debts Recovery Appellate Tribunal (hereinafter referred to as "the learned DRAT"), by way of Appeals 368/2018 and 369/2018. *Vide* order, dated 23rd January, 2019, the learned DRAT allowed the said appeals, dismissed SA 118/2018 and remanded OA 742/2016 to the learned DRT.

6. The said order, dated 23rd January, 2019 of the learned DRAT, was assailed, before this Court, by M/s. Quicknet Telecom Ltd., one of the guarantors of M/s. Duncan Macneill India Power Ltd., *vide* WP(C) 2960/2019 (***M/s. Quicknet Telecom Pvt. Ltd. Vs. ICICI Bank Ltd. & Ors.***), and by Mr. A.K. Jajodia, one of the Directors of Defendant No. 3, *vide* WP(C) 2962/2019 (***M/s. A.K. Jajodia & Ors. vs. ICICI Bank & Ors.***).

7. In WP(C) 2960/2019 and WP(C) 2962/2019, this Court, *vide* order dated 26th March, 2019, stayed the proceedings before the learned DRT. The said order of stay continues till date, and WP(C) 2960/2019 and WP(C) 2962/2019 are stated to be next listed on 21st August, 2020.

8. In the interregnum, the plaintiff, as a financial creditor, preferred an application under Section 7 of the Insolvency and Bankruptcy Code, 2016 (hereinafter referred to as "the IBC"), on 6th August, 2018, for initiation of the Corporate Insolvency Resolution Process against Defendant No. 3, before the learned National Company Law Tribunal, New Delhi (hereinafter referred to as "the learned NCLT"). The said petition, which was registered as Company

Petition (IB)-974(PB)/2018, was admitted by the learned NCLT on 26th February, 2019, resulting in moratorium under Section 14 of the IBC, become applicable, and an Interim Resolution Professional (IRP), in respect of Defendant No. 3 was appointed.

9. This order, dated 26th February, 2019, of the learned NCLT, was assailed by Mr. A.K. Jajodia, by way of Company Appeal (AT) (Insolvency) 270/2019, before the learned National Company Law Appellate Tribunal (hereinafter referred to as "the learned NCLAT").

10. *Vide* order, dated 5th September, 2019, the said Company Appeal (AT) (Insolvency) 270/2019, was dismissed, by the learned NCLAT, holding that the plaintiff had established that it was the financial creditor of Defendant No. 3 and that the learned NCLT had, rightly, admitted Company Petition (IB)-974(PB)/2018, under Section 7 of the IBC.

11. The aforesaid order, dated 5th September, 2019 of the learned NCLAT, was challenged, by M/s. Sprit Infrapower and Multiventures Pvt. Ltd., by way of Civil Appeal (D) No. 38114/2019, which was dismissed by the Supreme Court, *vide* order, dated 25th November, 2019. Review Petition (C) 737/2020 preferred thereagainst, was also dismissed by the Supreme Court, *vide* order, dated 23rd April, 2020. The order, dated 26th February, 2019 of the learned NCLT, thereby attained finality.

12. In the Corporate Insolvency Resolution Process of Defendant

No. 3, under the IBC, the final Resolution Plan submitted by Adani Properties Private Limited (hereinafter referred to as "APPL"), was approved by 93.01% votes of the Committee of Creditors. Under the said Resolution Plan, the APPL agreed to pay a total consideration amount of ₹ 265 crores for the resolution of Defendant No. 3.

13. The aforesaid Resolution Plan of APPL was approved by the learned NCLT, *vide* order, dated 14th February, 2020, which also discontinued the moratorium under Section 14 of the IBC, continuing till then. As a result of the Resolution Plan, there was a change in the management and ownership of Defendant No. 3, control of which was vested, thereafter with APPL.

14. Consequent to the aforesaid approval of the Resolution Plan by the learned NCLT, APPL infused ₹ 265 crores in Defendant No. 3, towards the payment of various costs and expenses and towards a one-time settlement of all claims and unclaimed debt against the corporate debtor. Consequent to the receipt of the said amount, the applicant/Defendant No. 2 issued a "No Dues Certificate" on 24th July, 2020.

15. In terms of the resolution plan, Defendant No. 3 also paid all amounts due to the plaintiff, in the account of the applicant, in its name and trust, and a "No Dues Certificate" also stands issued by the plaintiff, in acceptance thereof. This fact is accepted by Mr. Manu Nair, learned counsel appearing for the plaintiff, who submits that the grievances, in the plaint, thereby stand redressed.

16. In view of these facts, the present application has been moved by the applicant, for permission to hand over the title documents and possession of the suit property, i.e. Plot No. 3, Bhagwan Das Road, New Delhi – 110001, to Defendant No. 3, i.e. M/s. Aditya Estates Private Limited.

17. The application is not opposed by any of the parties and, in view of the satisfaction of the entire debt of the plaintiff, the parties, *ad idem*, submit that the suit may be disposed of.

18. In view of the above, this application is allowed. CS(COMM) 1020/2018 stands disposed of, as the amounts, claimed in the suit by the plaintiff against Defendant No. 3, have been paid and a "No Dues Certificate" has also been issued by the plaintiff. The applicant is permitted to hand over the title documents and physical possession of the suit property, i.e. Plot No. 3, Bhagwan Das Road, New Delhi – 110001, to Defendant No. 3, i.e. M/s. Aditya Estates Private Limited.

19. As the Resolution Plan stands approved, and all amounts due to the plaintiff stand paid consequent thereupon, nothing survives for adjudication in the suit, which, accordingly, stands decreed in the aforesaid terms. The decree-sheet be drawn up accordingly.

C. HARI SHANKAR, J

AUGUST 14, 2020
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