

Ct. 05
Item No.21
30.06.2022
(suvendu)

WPA 16501 of 2021

**FCIB Enforcement and Detective
Agency Private Limited
Vs.
Reserve Bank of India & Ors.**

Mr. Shaunak Ghosh
Mr. Rajib Mullick
Ms. Shreyashi Maity
.....for the petitioner
Mr. Ranojit Chowdhury
.....for the respondent nos. 2 & 4

The claim of the petitioner relates to unpaid bills due from the Corporation Bank on account of the petitioner's arranging a certain number of Security Personnel for looking after the mortgaged property of one M/s. Shree Ganesh Jewellery House (I) Limited. The letter of engagement dated 16.06.2017 would bear testimony to this fact. Under the said letter, the petitioner, being a Security Agency, was appointed in respect of arranging Security Guards for Shree Ganesh Jewellery House. A large number of bills have been annexed to the writ petition showing that the petitioner submitted bills from 30.11.2017 to 31.10.2019.

It is submitted on behalf of the petitioner that the Corporation Bank, now merged with the respondent no. 2 /Union Bank of India, has failed to pay any of these bills. The total dues are of Rs. 29.56 lakhs.

The objection raised by learned counsel appearing for the Bank is that the dues of the

petitioner are to be made by the Resolution Professional of Shree Ganesh Jewellery House which went into CIRP on 14th September, 2018. Counsel submits that an order of moratorium continued from February to September, 2018 after which the fresh moratorium commenced. Counsel places a letter written by the petitioner to the RP and Minutes of consultation with stakeholders held on 13th December, 2019 which discussed the claim of the petitioner with certain observations. It is also submitted that the claim of the petitioner, if any, may be settled by the Resolution Professional of Shree Ganesh Jewellery House.

After hearing learned counsel, this Court is of the view that Shree Ganesh Jewellery House or the Resolution Professional appointed by the National Company Law Appellate Tribunal under the provisions of The Insolvency and Bankruptcy Act, 2016 would have no application in the present case. The engagement letter was issued by the Corporation Bank on 16.06.2017 and appointed the petitioner for looking after the mortgaged property of Shree Ganesh Jewellery House. The Corporation Bank was hence the party which appointed the petitioner for providing Security Personnel in terms of the letter of engagement.

The fact of Shree Ganesh Jewellery House subsequent entering into Corporate Insolvency Resolution proceedings is of no consequence to the claim of the petitioner being made uncertain. There is no indication in the letter of engagement that Shree Ganesh Jewellery House would be liable to make payment to the petitioner or be treated as the appointer, if such a term can be used, in respect of the services to be provided by the petitioner. If the petitioner approached the RP

at any point of time that by itself would not dilute the claim of the petitioner from the Corporation Bank. There is no document on record to show that Shree Ganesh Jewellery House at any point of time agreed to pay the dues of the petitioner for the services rendered. It was always the Corporation Bank which was liable to pay the outstanding amount to the petitioner. Admittedly, such dues have not been paid and a substantial amount remains outstanding as of today.

WPA 16501 of 2021 is accordingly disposed of with a direction on the respondent no.2, being the Union Bank of India, to pay a sum of Rs. 29,56,608/- along with interest @ 8% per annum from 30th November, 2017 till the date of payment which preferably be made within eight weeks from today.

(Moushumi Bhattacharya, J.)

Later

Learned counsel appearing for the Bank prays for stay of operation of this order.

Considering the fact that the petitioner's dues have remained unpaid from 2017, the prayer for stay is considered and refused.

Urgent photostat certified copy of this order, if applied for, be given to the parties on usual undertakings.

(Moushumi Bhattacharya, J.)