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IN THE HIGH COURT OF DELHI AT NEW DELHI

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Date of decision:04.05.2022

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LPA 566/2018 & CM APPL. 41158/2018

**INSOLVENCY & BANKRUPTCY BOARD
OF INDIA**

..... Appellant

Through: Mr Vikas Mehta, Mr Apoorv Khator
and Ms Akanksha Vigyan, Advocate.

versus

STATE BANK OF INDIA & ORS

..... Respondents

Through: Mr Rajiv Kapur with Mr Akshit
Kapur, Advocates for SBI
Ms Maneesha Dhir, Amicus Curiae,
Ms Varsha Baneerjee and Mr Kanishk
Khetan, Advocates, Assisting Amicus
Curiae

CORAM:

HON'BLE MR. JUSTICE RAJIV SHAKDHER

HON'BLE MS. JUSTICE POONAM A. BAMBA

[Physical court hearing/ hybrid hearing (as per request)]

RAJIV SHAKDHER, J. (ORAL):-

1. This appeal is directed against an interlocutory order dated 26.09.2018, passed by the learned single judge in W.P.(C) No.10189/2018.
2. *Via* the impugned order, the learned single judge allowed the existing 'Expression of Interest', which had been issued by the Resolution Professional [in short "RP"], to progress further.
 - 2.1. The learned single judge has also observed in the very same order, that in view of the said direction, the order dated 05.09.2018 passed by the National Company Law Tribunal [in short "NCLT"] in the matter of ***State Bank of India vs. Su Kam Power Systems Ltd*** will not come in the way in matters wherein 'Expression of Interest' has already been issued by the RPs.
 - 2.2. The record shows that the appellant had assailed by way of W.P.(C)

No.10189/2018, the order dated 05.09.2018 passed by the NCLT, which is referred to hereinabove.

2.3. Clearly, the said writ petition i.e., W.P.(C) No. 10189/2018 is pending adjudication before the learned single judge.

3. Furthermore, the record also shows that the predecessor Bench in the instant appeal *vide* order dated 05.10.2018, has stayed the operation of the order dated 05.09.2018 passed by the NCLT.

3.1. In effect, Regulation 36A of the Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) Regulations, 2016 continues to operate.

4. Given this position, in our view, the writ petition needs to be heard and a final decision is required to be rendered in the said writ petition.

5. Accordingly, the appeal is disposed of, with a request to the learned single judge to take up the writ petition for hearing and final disposal.

6. It is further directed that pending the disposal of the writ petition, interim order dated 05.10.2018 passed by the Division Bench will continue to operate.

7. Consequently, pending application shall stand closed.

RAJIV SHAKDHER, J

POONAM A. BAMBA, J

MAY 4, 2022/g.joshi

Click here to check corrigendum, if any