

October 3, 2023
Sl. No.77
Court No.19
s.biswas

CO 3536 of 2023

Kesoram Industries Limited
vs.
Pratim Bayal, Resolution Professional of Birla Tyres Limited

Mr. Mainak Bose Mr. Aniruddha Chatterjee Mr. Vikas Baisya	... for the petitioner
Mr. Abhrajit Mitra Mr. Anirban Ray Mr. Shirvalli Kajaria Mr. Piyush Agarwal	... Resolution applicant
Mr. Kuldip Mallik Mr. Aditya Sarkar	... for the COC
Mr. Jishnu Chowdhury Mr. Piyush Agarwal Mr. Surinath Kajaria	... for the Himadri
Mr. Saunak Mitra, Mr. Avishek Guha,	... for the Opposite party no.1

Mr. Bose, learned advocate, appears on behalf of the petitioner and submits that the learned NCLT, Kolkata Bench was proceeding with the hearing of the application for approval of the Resolution Plan, without deciding the application of the petitioner.

In my view, unless adjudication of the right of the petitioner, who claims to be a financial creditor of the corporate debtor, is complete, disposal of IA (I.B.C.) No.1527 (KB) of 2023 may be prejudicial to the interest of the petitioners and the application IA

(I.B.C) No.957 (KB) of 2023 which was heard and reserved for orders, will be rendered infructuous.

The petitioner claims to have more than 30% voting share amongst the Committee of Creditors. The Resolution Professional removed the petitioner from the Committee of Creditors. The petitioner challenged such order.

Mr. Abhrajit Mitra, learned Advocate for the Resolution Applicant and Mr. Saunak Mitra, learned Advocate appearing for the opposite party no.1, submit that the pending interlocutory applications are being heard and no final orders have been passed either in IA (I.B.C.) No.1527 (KB) of 2023, or the other application. The revisional application has been filed only to delay the proceeding before the learned NCLT and to preempt the learned Tribunal from proceeding according to law.

Mr. Jishnu Chowdhury, learned advocate submits that the revisional application is not maintainable and prays for dismissal of the same.

All the Learned Advocates opposing the petitioners, submit that the pending applications are being heard one by one by the learned Tribunal and no final orders have been passed.

Having heard learned Advocates for the respective parties, this court directs that the learned NCLT., Kolkata Bench, shall not pass orders in IA

(I.B.C.) No.1527 (KB) of 2023, prior to passing orders in petitioners' application IA (I.B.C) No.957 (KB) of 2023, which has been reserved for orders, earlier.

The proceeding before the learned NCLT, Kolkata Bench, will continue. This court has not entered into the merits of the issues pending before the learned Tribunal any orders on merits.

The revisional application is accordingly disposed of.

There shall be no order as to costs.

Parties are to act on the server copy of this order.

(Shampa Sarkar, J.)