

IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
NAGPUR BENCH : NAGPUR.

CIVIL APPLICATION (W) NO. 2204 OF 2023 IN
WRIT PETITION NO.3766 OF 2023

Ms Archana Wani

vs.

Indian Bank (Erstwhile Allahabad Bank), Deputy General Manager, Stressed Asset
Management Department, Mumbai and others.

Office Notes, Office Memoranda of
Coram, appearances, Court's Orders
or directions and Registrar's order

Court's or Judge's Order

Shri M.G.Bhangde, Senior Advocate with Shri D.V.Chauhan, Advocate for
applicant/petitioner.
Shri Manogya Singh, Advocate for non-applicant nos. 1 and 2.
Shri Akshay Naik, Advocate for non-applicant no.4.
Shri C.S.Dhore, Advocate for respondent no.5.

CORAM :- A.S.CHANDURKAR AND MRS. VRUSHALI V. JOSHI, JJ.

DATE :- 21st JULY, 2023

By this application, the applicant-petitioner prays that the Interim Resolution Professional (for short, the IRP) be restrained from holding a meeting of the Committee of Creditors (for short, the CoC) on 21.07.2023 or any other date till the writ petition is heard and decided.

2. According to the applicant this Court on 20.06.2023 while issuing the notice to the respondents had directed the respondent nos. 1 and 2 not to take any precipitative steps in Company Petition Nos. 3631/2018 and 1093/2020 that are pending before the National Company Law Tribunal (NCLT). In Company Petition No.1093/2020 the applicant filed Interim Application No.2574/2023. By the said Interim Application a request was made to the NCLT to keep the said proceedings in abeyance till the present writ petition was decided or until further orders were passed therein. It was prayed that the IRP be directed not to take any precipitative steps against the Corporate Debtor during the pendency of the writ petition. The NCLT considered Interim Application No. 2754 of 2023 and on 14.07.2023 did not

intervene in the CIRP proceedings. The prayer made by the applicant in Interim Application No.2574/2023 was not granted. The IRP on 15.07.2023 issued notice of second meeting of CoC indicating therein that the said meeting would be held on 21.07.2023 at 12.30 p.m. In the light of this notice, the present application has been filed for the reliefs stated hereinabove.

3. After hearing the learned Senior Advocate for the applicant as well as the learned Advocates appearing for the non-applicant nos. 1, 2 and 5, we find that having approached the NCLT for seeking the prayers made in this civil application and those prayers having been refused, the remedy of filing an appeal before the National Company Law Appellate Tribunal (NCLAT) is available to the applicant if she is aggrieved by the order dated 14.07.2023. The applicant having been approached the NCLT with a prayer to keep the proceedings in Company Petition No. 1093/2020 in abeyance and the Interim Application having been decided by the NCLT, we are not inclined to consider a similar prayer in the civil application. The remedy for challenging the order dated 14.07.2023 before the NCLAT is available to the applicant.

4. Since we have not entertained the civil application on merits as the remedy of appeal is available, it is clarified that we have not examined the rival contentions that were urged before us as regards the prayer made in the civil application. The grounds raised in the civil application are kept open. We may note that the ad-interim order dated 20.06.2023 has been continued by the subsequent orders and the writ petition is to be heard on 03.08.2023.

5. The civil application is disposed of in the aforesaid terms. No costs.