

Ct. 20.01
No. 237
2025
14
akb

C.O. 3922 of 2024
T-RMC Pvt. Ltd.
-Versus-
Square Four Housing & Infrastructure
Development Pvt. Ltd.

Mr. Abhrajit Mitra
Mr. Chayan Gupta
Mr. Raghunath Ghosh
Ms. Shusma Santra **...For the Petitioner**

Being aggrieved by and dis-satisfied with the order dated 27th June, 2024, 8th July, 2024 and 4th October, 2024 passed by the Members, Bench – II, National Company Law Tribunal at Kolkata in CP 438/KB/2018, M.A.(IBC)/1(KB) of 2024 and 9A(IBC)/1313(KB) 2024, present application has been preferred by the petitioner.

Petitioner's contention is that by an order dated 29th June, 2022 passed in CP 438/KB/2018 they were asked to pay Rs. 2 lakhs per month to be calculated from the date of creation of tenancy till the date of handing over possession of the land and also to hand-over peaceful possession of the subject land/premises.

It is submitted that thereafter they were ousted from the subject land and thereafter they have filed an execution case, being MA 1 of 2024 on 13.1.2024 for realization of the said amount calculated at the rate of Rs. 2 lakhs for 96 months amounting to Rs. 1,92,00,000/- along with Rs. 15 lakhs per month towards mesne profit from July 2022. In the said proceeding notice was also issued upon the petitioners to file affidavit disclosing it's assets on the next

date of hearing vide order dated 27.6.2024.

The main grievance ventilated herein by the petitioner is that they have in the meantime filed one application on 4th July, 2024, being I.A. 1313 of 2024 whereby they have prayed for recalling the aforesaid order dated 27th June, 2024 and also prayed that the matter to be heard on merit upon considering the issue with regard to maintainability inter alia that the NCLT lacks jurisdiction to grant relief of recovery of rent from the tenant and the eviction of the tenant from the property of the corporate debtor, which lies in the excluding domain of a Civil Court.

It is alleged that the Tribunal concerned has kept the said application pending and insisting for filing of affidavit disclosing assets of the petitioners and the next date is fixed on 28th January, 2025.

Having considered the facts and circumstances of the case and that the application which has been filed by the petitioner herein in IA 1313 of 2024 and which is pending for a considerable period of time, I find that if any order is passed in terms of a direction for expeditious disposal of the said application, in the present case, neither party will have any cause to prejudice, and as such service of copy of the application upon the opposite party is dispensed with.

Having considered that the petitioner's issue

challenging maintainability of the order under execution needs to be disposed of on merit at the earliest, present application, being C.O. 3922 of 2024 is hereby disposed of with a direction upon the Tribunal below to dispose of the petitioner's application dated 4th July, 2024 pending in IA 1313 of 2024, preferably within a period of four weeks, before taking up hearing of any other application. Be it mentioned that finding, if any, made herein shall not be construed as the view of the High Court with regard to the merit of the proceeding.

Urgent photostat certified copy of this order, if applied for, be supplied to the petitioner, on priority basis on compliance of all requisite formalities.

(Dr. Ajoy Kumar Mukherjee, J.)