

OD-13 & 14

APOT/252/2025
WITH CS-COM/93/2025
IA NO: GA/1/2025

Wt

APOT/282/2025

IN THE HIGH COURT AT CALCUTTA
Commercial Appellate Division

PIRAMAL FINANCE LIMITED AND
ANR.

-VERSUS-

MANI SQUARE LIMITED AND ORS.

BEFORE :
THE HON'BLE JUSTICE DEBANGSU BASAK
And
THE HON'BLE JUSTICE MD. SHABBAR RASHIDI
Date : 3rd November, 2025.

Appearance:

Mr. Tilak Bose, Sr. Adv.
Mr. K. R. Thakker, Sr. Adv.
Mr. Somdutta Bhattacharyya, Adv.
Mr. Shounak Mukhopadhyay, Adv.
Mr. Kiran Sharma, Adv.
Ms. Arti Bhattacharyya, Adv.
Mr. Sagnik Aditya, Adv.
...for the appellant.

Mr. Jishnu Saha, Sr. Adv.
Mr. Aditya Kanodia, Adv.
Mr. Ishaan Saha, Adv.
...for the respondent nos. 1 & 2.

Mr. S., N. Mookherjee, Sr. Adv.
Mr. Rajashri Dutta, Adv.
Mr. Piyush Agarwal, Adv.
Mr. Swarnalli Kajaria, Adv.
Mr. Yash Singhi, Adv.
...for the respondent No. 3.

The Court :- Two appeals are taken up for hearing as they emanate
out of same suit.

APOT/252/2025 is directed against the order dated August 19, 2025 passed in GA-COM/1/2025 in CS-COM/93/2025; while APOT/282/2025 is directed against the ad interim order dated August 19, 2025 which was extended by order dated September 17, 2025.

The appellants claim itself to be a financial creditor of the plaintiff/respondent.

Learned senior advocate appearing for the appellant submits that, the interim order is such that it results in the proceeding under Section 7 of the Insolvency and Bankruptcy Code (IBC) although, the interim order clarifies that the National Company Law Tribunal (NCLT) is free to take decision with regard to the admission of the application filed by the appellants under Section 7 of the IBC.

Learned senior advocate appearing for the appellant submits that, the appellants lent and advanced money to the plaintiff on pledge and mortgage of properties. He submits that, the plaintiff defaulted in payment of the credit facilities. Appellant recalled the credit facilities and proceeded to apply under Section 7 of the IBC before the NCLT, Kolkata Bench. Such application is pending.

Learned senior advocate appearing for the appellant draws the attention of the Court to the impugned order. He submits that, by reason of the impugned order, the appellant was restrained from giving effect to the recall notice as well as the follow up notices in respect of the credit facilities. He submits that the same tantamount to the NCLT not deciding upon the

Section 7 application since the foundational basis of the application under Section 7 of the IBC is the recall notice and the follow up notices.

Learned senior advocate appearing for the plaintiff submits on instruction, that, the plaintiffs are anxious with regard to the pledge and mortgage. He submits that, the issue of the validity of the pledge and mortgage cannot be decided by the NCLT. He submits on instruction, that, his client does not object to NCLT deciding upon the application under Section 7 of the IBC in accordance with law. He contends that, the entirety of the claim of the appellant was repaid although belatedly. He also points out that, so far as the belated portion is concerned, the same is governed by the terms of the agreement which allows the appellant to levy interest. That interest component was also paid.

Contention of the plaintiff that, the entire amount stands repaid is disputed on behalf of the appellant.

We find from the records that, an application under Section 7 of the IBC is pending consideration before the NCLT, Kolkata. Such application is prior in point of time.

In the suit, the learned Single Judge proceeded to pass an ad interim order restraining the appellant from giving effect or further effect to the notice of recall and the follow up notices.

Apparently, a portion of the recall notice as also the follow up notices deal with the pledge and mortgage that the appellant claims were created in favour of the appellant. It is accepted at the Bar that NCLT will not decide on

the issue of pledge and mortgage when deciding the issue as to the admissibility of an application under Section 7 of the IBC.

In such circumstances, it would be appropriate to modify the order impugned by permitting the appellant to press its application under Section 7 of the IBC before the NCLT. NCLT will note out and decide such application in accordance with law.

All points raised by the parties with regard to the proceedings under Section 7 of the IBC are kept upon to be decided by the NCLT.

It is clarified that the legality, validity and sufficiency of the recall notice and the follow up notices may be decided upon by the NCLT, if so raised to the extent of recalling.

Accordingly, both the appeals and the connected application are disposed of. Interim order, if any, stands vacated.

(DEBANGSU BASAK, J.)

(MD. SHABBAR RASHIDI, J.)