

IN THE NATIONAL COMPANY LAW TRIBUNAL, NEW DELHI
COURT-III

Item No.-102
IA-631/2021
IN
IB-17(ND)/2021

IN THE MATTER OF:

Shri Lalit Mohan Goyal

Vs.

Hema Engineering Industries Ltd

...OPERATIONAL CREDITOR

...RESPONDENT

SECTION

U/s 9 IBC code 2016

Order delivered on 18.02.2021**CORAM:****CH. MOHD. SHARIEF TARIQ****MEMBER (JUDICIAL)****SHRI NARENDER KUMAR BHOLA****MEMBER (TECHNICAL)****PRESENT:**

For the Applicant/OC :

For the Respondent/CD : Mr. Vikas Dutta and Mr. Ujjwal Advocates

ORDER**IA-631/2021:-**

Counsel for the Applicant/Operational Creditor is present. Counsel for the Non-Applicant/Corporate Debtor is present. Counsel for the Applicant submitted that the non-applicant is selling the properties in order to defeat the claim of the applicant and other creditors and prayed to issue an *ad interim injunction* against the Corporate Debtor to the effect that the movable and immovable properties of the CD should not be transferred, encumbered, or third-party interests should not be created till the main petition is decided.

The reply has been filed by the Non-Applicant/Corporate Debtor and under Para 7 the fact that the Corporate Debtor has stopped the operations in plants and is

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in the process of restructuring is denied. However, the counsel for the Applicant drew our attention to the email communication dated 12.02.2021 sent by the CD, wherein it is mentioned that four plants are shut down and the company is being restructured. It is noted that the email communication is not placed on the file. However, this Authority has taken judicial notice of the said communication. It appears that factual detail with regard to the operations of the plants is wrongly mentioned in the reply by the CD. This aspect raises a serious concern with regard to the conduct of the CD. Therefore, the serious apprehension expressed by the Applicant appears to be firm.

The petition filed under section 9 of the IBC by the applicant is pending and the non-applicant did not file the reply, balance of conveyance is in favour of the Applicant and in case the property i.e., movable and immovable is of the CD is sold/encumbered or third-party interest is created by the Non-Applicant/Corporate Debtor, then Applicant will become remediless and non-suited.

In the circumstances, we are inclined to issue an *ad interim injunction* and restrain the non-applicant/Corporate Debtor from selling its movable and immovable properties, or encumbering, or creating third party interest in any manner whatsoever, till further orders.

In terms of the above, the Application is **allowed**.

- sd -

(NARENDER KUMAR BHOLA)
MEMBER (TECHNICAL)

- sd -

(CH. MOHD. SHARIEF TARIQ)
MEMBER (JUDICIAL)

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