

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

Item No.-512
IB-1587/ND/2019
IA/43/2021

IN THE MATTER OF:

M/s. JC Enterprises Pvt. Ltd.

V/s

M/s. M.K.S Oil Pvt. Ltd.

....Applicant

....Respondent

SECTION

U/s Sec.9 IBC

Order delivered on 29.01.2021

CORAM:

SHRI ABNI RANJAN KUMAR SINHA
HON'BLE MEMBER (JUDICIAL)

SHRI K.K. VOHRA,
HON'BLE MEMBER (TECHNICAL)

PRESENT:

For the Applicant

: Adv Kanvi Nagpal, For suspended BoD, Manish Raghav, Adv for J C
enterprised

For the Respondent

: Siddharth Banthia, Advocate for RP,

ORDER

By filing this application the Applicant / Suspended Board of Director prayed for the cancellation of nonailable warrants of arrest issued against the Suspended Board of Director on 03.12.2020.

Heard the Ld. Counsel appearing for the applicant as well as the RP and perused the averments made in the application as well as our previous orders dated 30.09.2020, 03.12.2020, 14.01.2021 & 15.01.2021.

Ld. Counsel for the applicant submitted that in compliance with the order dated 15.01.2021, the applicant has filed the affidavit today and she further submitted that they have already complied with all the directions given by the RP. She further submitted that the Suspended Board of Director had already handed over all the information which the RP requires.

On the other hand, Ld. RP submitted that still all the information / documents have not been furnished by the Suspended Board of Director. He

further submitted even ~~that~~[✓] the affidavit has been filed today, which is not on record. He further submitted that on several occasions this Bench had directed the Suspended Board of Director to hand over the documents/information but all the orders have not been complied as yet.

Considering the submissions, we notice that vide order dated 30.09.2020, we directed the Suspended Board of Director to furnish the information as required by the RP within three days from the date of order and also filed[✓] an affidavit stating the facts that they have furnished all the information as required by RP but it appears that order has not been complied as yet. We further notice that on 03.12.2020, when our order dated 30.09.2020 was not complied then considering that, we issued non bailable warrants of arrest against the Suspended Board of Director through SP concerned.

Again the matter was listed on 07.01.2021 and thereafter on 14.01.2021 and on that day on behalf of Suspended Board of Director, Ld. Counsel submitted that the maximum documents have already been furnished to RP and the remaining documents will be furnished during the course of the day and considering that submissions, we adjourned the matter to 15.01.2021. On 15.01.2021, the Bench also expressed adverse remarks against the Suspended Board of Director. On that day, we observed that despite our directions, the documents were not furnished to the RP and even in the light of our orders, no affidavit has been filed, thereafter, the matter is listed today. Again we notice that the order has not been complied,^{and} rather an information has been made by the Ld. Counsel for the applicant that today the applicant has filed an affidavit, which is not on record.

Considering this, we notice that the Suspended Board of Director are not inclined to comply our directions, therefore, we are not inclined to cancel our earlier order by which we have issued the non bailable warrants of arrest against the Suspended Board of Director. Accordingly, the prayer for cancellation of non bailable warrants of arrest against the Suspended Board of Director vide order dated 03.12.2020 is hereby rejected. With this order the present IA is **DISMISSED**.

✓

However, if the Suspended Board of Director hand over all the documents/information as required by the RP, in that case, they are at liberty to renew its prayer and file affidavit stating the facts that all the information/documents have been handed over to the RP and nothing is required to be hand over.

Sd/-

(K.K. VOHRA)
MEMBER (T)

(ABNI RANJAN KUMAR SINHA)
MEMBER (J)

Per Member Technical:

1. In this case, this Court had issued order on 03.12.20 for Non-bailable warrants stating, inter-alia, “Issue Non-Bailable Warrant of arrest against the Suspended Board of Director through the SP. List the case on 07.01.2021”.
2. Facts in this case as listed on the previous pages of this order indicate that the Suspended Director has continuously dis-obeyed the orders of this Court and did not appear in person during Hearings on Jan 14, 15 and 29, 2021 etc.
3. This Court has not cancelled Non-Bailable Warrant and has dismissed the prayer for cancelation.
4. Respectfully, the case will be taken forward to meet ends of justice. Accordingly, it is directed to
“Issue fresh Non-Bailable Warrant of arrest against the Suspended Board of Director through the SP. List the case on 23.02.2021.”
5. Registry is requested to send fresh communication to concerned Police Authorities.

Sd/-

(K.K. Vohra)

Member (Technical)