

IN THE NATIONAL COMPANY LAW TRIBUNAL: NEW DELHI
PRINCIPAL BENCH

IA. No. 205/2021

In

Company Petition No. (IB)-244(ND)/2019

Order under Rule 114(2) of the NCLT Rules, 2016

IN THE MATTER OF:

Scindia Potteries & Services Pvt. Ltd. ... Applicant / Petitioner

And IN THE MATTER OF:

Stressed asset Stabilization Fund (SASF) ... Applicant/Petitioner

Vs

Jain Studio ... Respondent

Judgment delivered on 09.02.2021

CORAM:

SH. B.S.V. PRAKASH KUMAR

HON'BLE ACTG. PRESIDENT

SH. HEMANT KUMAR SARANGI

HON'BLE MEMBER (TECHNICAL)

PRESENT:

For the Applicant : Ms. Mahima Dang, Advocate in IA No. 205 / 2021

For RP : Mr. Abhishek Anand, Adv & Kunal Godhwani Adv.

AS PER: B.S.V. PRAKASH KUMAR, ACTG. PRESIDENT

Heard and dictated in the open court on 09.02.2021:

IA-205/2021

It is an application moved by Scindia Potteries & Services Pvt. Ltd. seeking a direction to allow the applicant to inspect the court record of this company petition and for supply of certified copies of entire court files as per rules on the premise that this applicant obtained a decree dated 17.07.2017 in CS(OS) No. 1311 of 2001 against one Mr. J.K Jain and the corporate debtor, stating that decree is passed against the corporate debtor and J K Jain for



recovery of possession, mesne profits, and permanent injunction restraining Mr. J.K Jain and the corporate debtor from carrying out commercial activity and raising any construction in the suit property as detailed in the decree and EP80/2018 is pending before the Hon'ble Court of Sh. Munish Markan, ADJ, Patiala House Courts, New Delhi.

The counsel further submits that the RP appointed in this case filed an application u/s 151 of CPC for stay of the Execution proceedings against the corporate debtor submitting that since the moratorium imposed u/s 14 of the Code by this Bench on 26.02.2020 is in force and the property involved in the EP proceedings having belonged to the Corporate Debtor, he has sought for a direction not to enforce the decree.

Since the RP filed stay application before the EP Court, the decree holder in the EP wants to examine the record of this CP, to know as to whether or not the asset belongs to the Corporate Debtor.

It is a fact the decree is against the corporate debtor, if the asset belongs to the corporate debtor, as per section 14 of the Code, after Moratorium is imposed, no proceeding shall either be initiated or



continued against the corporate debtor assets. Here moratorium is already in force over the assets of the corporate debtor.

In the back drop of it, in case the applicant has title over the asset and the corporate debtor has no title or right over the said asset, it can place the same before the execution court, for which the applicant counsel need not rely upon the documents of this CP. If it does not belong to the corporate debtor, and it being a proceeding based on a decree, she can prove it before the execution court by judgement copy saying that the asset does not belong the corporate debtor, besides this, once moratorium is ordered prohibiting all from proceeding against the corporate debtor, if EP is against the corporate debtor, the applicant cannot proceed any further against the corporate debtor. To prove the case of the applicant, it is not expected make an enquiry into the case of the corporate debtor and inspect the documents of this CP, therefore **IA-205(PB)/2021 is hereby dismissed as misconceived.**

IA-5678(PB)/2020:-

List on 23.03.2021.



**(B.S.V PRAKASH KUMAR)
ACTG. PRESIDENT**



**(HEMANT KUMAR SARANGI)
MEMBER (TECHNICAL)**