

BENCH-I

NATIONAL COMPANY LAW TRIBUNAL
KOLKATA BENCH
KOLKATA


103

C.P.(IB) No. 169/KB/2018
CA (IB) No. 710/KB/2018

Present: Hon'ble Member (J), Shri Jinan K.R.

ATTENDANCE-CUM-ORDER SHEET OF THE HEARING ON 28TH AUGUST, 2018, 10:30 A.M.

Name of the Company	Tribeni Resources Pvt.Ltd.-Vs- B P Poddar Hospital & Medical Research Ltd.		
Under Section	9 IBC		
Sl. No.	Name & Designation of Authorized Representative (IN CAPITAL LETTERS)	Appearing on behalf of	Signature with date

1. Mr. Ratnanko Banerjee, Sr. Adv.
 2. Mr. Subhankar Nag, Adv.
 3. Mr. Joydeep Biswas, Adv.
 4. Ms. Urmila Chakraborty, Adv.
 5. Mr. Abhisek Baran Das, Adv.
Interim.
 6. Mr. Ajay Gaggas, Resolution professional (R.P.)
- } For Applicant
(B.P. Poddar)

28.08.18

bec
28-8-18

ORDER

Nobody represented on the side of the operational creditor. Ld. Counsel for the corporate debtor (applicant) as well as Ld. Resolution Professional is present.

CA(IB) No. 710/KB/2018 filed by the corporate debtor praying for staying the operation of the CIRP process on the ground that the applicant has paid the entire dues to the operational creditor even before the date of admission, that was inter alia on 25/07/2018 and that there is no outstanding amount is due

thereafter. However, vide order dated 27/07/2018 the Adjudicating Authority admitted the application filed by the operational creditor. The operational creditor did not brought to my notice regarding the discharge of debt prior to the date of admission. In the said circumstances this application came up for consideration.

In the meanwhile, Ld. Interim Resolution Professional has filed an affidavit stating that despite the communications given to the operational creditor, the operational creditor did not cooperate with the Interim Resolution Professional in continuing the resolution process and therefore, he could not effect the public announcement. Accordingly, there was no public announcement as required under the provisions of the Code and Regulations.

Therefore, it appears to me that the applicant herein got an order of admission suppressing the true facts regarding the outstanding amount claimed to be due. On the other hand no amount was found due as on the date of admission. The applicant not at all turned up on today. The attempt of the applicant / operational creditor, is amount to abuse of the process of the Tribunal. In the said circumstances, continuing CIRP would not serve any purpose. Therefore, I am inclined to recall the order passed on 27/07/2018 by directing the Interim Resolution Professional not to proceed further. At this juncture the Ld. Sr. Counsel appearing for the corporate debtor submits that initial resolution cost as well as fees due to the Interim Resolution Professional as on today will be discharged upon submission of his claim with the corporate debtor. Recording the submissions

recalled the order of admission dated 27/07/2018. C.P. is disposed of as above. In view of the disposal of the C.P., CA(IB) No. 710/KB/2018 is liable to be dismissed. Therefore, it is dismissed.

Certified copy of the order be issued, if applied for, upon compliance with all requisite formalities.



(Jinan K.R.)
Member (J)