

NATIONAL COMPANY LAW TRIBUNAL
SINGLE BENCH
CHENNAI

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ATTENDANCE CUM ORDER SHEET OF THE HEARING OF CHENNAI BENCH, CHENNAI
NATIONAL COMPANY LAW TRIBUNAL, HELD AT 10.30 AM ON 12/09/2018

PRESENT: SHRI Ch. MOHD SHARIEF TARIQ, MEMBER-JUDICIAL

APPLICATION NUMBER : MA/327/IB/2018
PETITION NUMBER : CP/540/IB/2018
NAME OF THE PETITIONER(S) : INDIAN OVERSEAS BANK
NAME OF THE RESPONDENTS : PRC INTERNATIONAL HOTELS PVT LTD & 2
UNDER SECTION : 60

S.No.	NAME (IN CAPITAL)	DESIGNATION	SIGNATURE
		REPRESENTATION BY WHOM	

M. Gagan Bothra

M. Gagan Bothra

F. Subramanian

F. Subramanian

R. Senthil Kumar

Counsel for RP

[Signature]

ORDER

The Counsel for Applicant is present. The Counsel for Respondent No. 3 is present. No representation on behalf of the Respondent No.2.

Heard both the sides and perused the Application and the record placed on the case file.

The Applicant viz., Indian Overseas Bank has prayed to grant permission to sell the property described in the Schedule to the Application under SARFAESI Act on conditions that may be prescribed by this Authority.

It has been submitted by the Counsel for the Applicant that Section 14 of I&B Code, 2016 is not envisaging the prohibition of all the proceedings pending against the Corporate Debtor during declaration of moratorium. The Counsel is of the view that the powers are granted to the Adjudicating Authority to permit to continue the proceedings under SARFAESI Act, 2002, during the moratorium, and therefore, the Applicant may be permitted to continue the proceedings under SARFAESI Act which have been initiated prior to the initiation of CIRP against the Corporate Debtor viz., M/s. PRC International Hotels Private Limited.

The perusal of Section 14 (1) (c) provides that any action to foreclose, recovery or enforce any security interest created by the Corporate Debtor in respect of its property including any action under the SARFAESI Act, 2002 is prohibited during the declaration of moratorium.

The above mentioned provision clearly provides that the proceedings pending under SARFEASI Act, 2002 will not be a bar for initiating CIR Process and declaration of moratorium against the Corporate Debtor. It further provides that any security interest created by the Corporate Debtor in its property cannot be the enforced during the moratorium.

The interpretation of Section 14 (1) (c) of I&B Code, 2016 that has been placed by the Counsel for the Applicant if taken into consideration the provision of Section 14 of the I&B Code, 2016 shall be rendered otiose. The language used under Section 14 of I&B Code, 2016 is simple, plain and there is no ambiguity. Therefore, while interpreting the same, an ordinary and natural meaning has to be given to the provisions. Thus, the interpretation given by the Counsel for the Applicant is absurd and contrary to the purport and object of I&B Code, 2016. In the circumstances, the Application filed by the Applicant is devoid of merits and is hereby **rejected**.


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