

IN THE NATIONAL COMPANY LAW TRIBUNAL,
HYDERABAD BENCH
AT HYDERABAD

C.A.No.156/2017
in
CP(IB)No.41/7/HDB/2017

In the matter of

SREI Infrastructure Finance Limited
"Vishwakarma" 86C, Topsia Road (South)
Kolkata – 700 046.

... Applicant/Financial Creditor

Versus

CERTIFIED TO BE TRUE COPY
OF THE ORIGINAL

1. Canara Bank
TSR Complex, 2nd Floor,
1-7-1, S.P. Road,
Secunderabad – 500 003.

... 1st Respondent/Financial Creditor

2. Shri K.K. Rao
Interim Resolution Professional
Deccan Chronicle Holdings Limited
No.36, Sarojini Devi Road,
Secunderabad – 500 003.

... 2nd Respondent/Corporate Debtor



Order Pronounced on: 16.11.2017

Hon'ble Rajeswara Rao Vittanala, Member (Judicial)

Hon'ble RavikumarDuraishamy, Member (Technical)

Parties Present:

For the Applicant : S/Shri Rishav Banerjee, Advocate along with
ShounakMitra, Zulfiqar Ali,
SrikanthHariharan, Ahishek Das, Advocates.

For the 1st Respondent : Shri T. Nagender, Advocate

For the 2nd Respondent : Shri K.K. Rao, IRP

Per: Ravikumar Duraishamy, Member (Technical)

ORDER

1. The Company Application bearing C.A.No.156/2017 in CP(IB)No.41/7/HDB/2017 is filed by the Applicant/Financial Creditor i.e. SREI Infrastructure Finance Limited under Section 60(5) of IBC, 2016, Praying for an interim order of stay restraining the Insolvency Resolution Professional or the Resolution Professional from conducting any further meetings of the Committee of Creditors or conducting any vote among the members of the Committee of Creditors till the time the Applicant is inducted in the Committee of Creditors.
2. The matter was posted for hearing on 21.08.2017, 31.08.2017, 14.09.2017 and 21.09.2017. On 21.09.2017, orders were reserved in C.A.No.153/2017 and C.A.No.156/2017 and interim order passed on 21.08.2017 was extended till disposal of both the CAs.

Canara Bank i.e. the financial creditor vide its counter dated 14.09.2017 submitted its reply and its submissions were already discussed in C.A.No.153/2017. Therefore for the sake of brevity, the same is not discussed in detail in the present CA.

4. The IRP also filed his reply affidavit dated 14.09.2017 submitting that the reliefs sought by the applicant company cannot be granted. The IRP has also submitted a copy of the record note of personal hearing held by IRP with SREI Infrastructure Finance Limited on 08.09.2017. The said personal hearing was in connection with e-mail dated 01.09.2017 sent by the IRP, the learned Advocate for the Financial Creditor harped upon the term "control" with reference to definition given in the Companies Act. The Advocate strongly contending that the intention of the legislature in making the Code more effective was allowing the largest creditor in the CoC and submitted that his rights as lender have been affected and he has been put to maximum loss if he is not representing the CoC. The Advocate also promised to send a written reply by 11.09.2017. Accordingly, they have also sent an e-mail on 11.09.2017. The IRP in his e-mail dated



01.09.2017 sought certain clarifications from the applicant company as detailed under:-

- a) *That why you have not informed the IRP consequent to receipt of CoC meeting notice that you are related party?*
 - b) *You have been specifically asked to confirm whether you are related party or not vide mail dated 11.08.2017 for which no reply has been filed by you. The reasons there for may be intimated?*
 - c) *It appears that you have suppressed the vital information of being related party with an intention of participating in the CoC meeting, which is not legal, but for the efforts taken by IRP, this fact of your being related party would not have come to limelight.*
 - d) *Now that you have initiated legal process and thereby caused delay of about a month on your account, out of the short time of six months, without having any of your rights infringed, how do you account for the same?*
- You have approached and initiated the legal process with unclean hands by suppression of information and when none of your rights and infringed, then the entire discussion can be termed as 'academic' discussion without having any legal sanctity and you replay is awaited.*



5. The Adjudicating Authority vide order dated 21.08.2017 directed the results of e-voting held on 21.08.2017 and 22.08.2017 be kept in abeyance till the next date of hearing and the matter was posted on 31.08.2017. The matter was listed on 14.09.2017 and at the request of the parties the matter was posted on 21.09.2017 and the interim order passed on 31.08.2017 was extended till the next date of hearing and the parties were directed to file rejoinder/reply well before the next date of hearing after serving to the otherside. After hearing the parties on 21.09.2017, the interim order passed on 31.08.2017 was extended till the disposal of the CA and orders were reserved.

6. It is appropriate to add that the Adjudicating Authority has passed a detailed order in C.A.No.153/2017 filed by the same financial creditor/applicant i.e. SREI Infrastructure Finance Limited rejecting all the prayers of the applicant. In view of the order in C.A.No.153/2017, the prayers/reliefs sought by the applicant in the current CA also deserves to be rejected and the interim order passed on 21.08.2017 is vacated and the IRP is permitted to conduct the meetings of CoC and also to announce the results of e-voting held on 21.08.2017 and 22.08.2017. The IRP is directed to comply with all the provisions of IBC, 2016 Rules and Regulations framed thereunder and to strictly comply with the time limit prescribed under the IBC, 2016 i.e. 180 days. Accordingly, IRP is directed to expedite all actions.

7. With the above directions, the C.A.No.156/2017 is disposed of.
8. No order as to costs.

Sd/-
RAVIKUMAR DURAISAMY
MEMBER (TECHNICAL)

Sd/-
RAJESWARA RAO VITTANALA
MEMBER (JUDICIAL)

**CERTIFIED TO BE TRUE COPY
OF THE ORIGINAL**

[Signature]
For Dy. Regr./Asst. Regr./Court Officer/
National Company Law Tribunal, Hyderabad Bench

CERTIFIED TRUE COPY
केस संख्या
CASE NUMBER: C.A.No. 156/2017 NCLT (H) Bench 1/71
निर्णय का तारीख 16/11/2017
DATE OF JUDGEMENT 16.11.2017
प्रति तैयार किया गया तारीख
COPY MADE READY ON 17.11.2017