

**IN THE NATIONAL COMPANY LAW TRIBUNAL, MUMBAI**

MA 17/2018 in CP No.1139/IBP/NCLT/MAH/2017

**IN THE NATIONAL COMPANY LAW TRIBUNAL**

**MUMBAI BENCH**

**MA 17/2018 in C.P. No.1139/I&BP/NCLT/MAH/2017**

**Under Section 14 of IBC, 2016**

In the matter of

State Bank of India ... Financial Creditor

Vs

Monnet Ispat & Energy Ltd... Corporate Debtor

Through

Interim Resolution Professional .. Applicant

Vs

Government of India

Ministry of Coal

Office of Nominated Authority. .... Respondent

Order delivered on 16.01.2018

Coram: Hon'ble B.S.V. Prakash Kumar, Member (J)  
Hon'ble V. Nallasenapathy, Member (T)

For the Applicant: Mr. Janak Dwarkadas, Sr. Counsel alongwith Mr. Zal Andhyarujina, Counsel, Ms. Ankita Singhania, Counsel, Ms. Deepa Mani, Ms. Anne Mathew, and Ms. Rukshin Ghiara, Advocates, i/b D. M. Legal Ventures.

*Per B. S. V. Prakash Kumar, Member (Judicial)*

**ORDER**

It's a Miscellaneous Application filed by the Resolution Professional seeking to quash the operation and effect of termination letter dated 30.12.2017 for termination of Coal Mines Development and Production Agreement (hereinafter referred as "CMDPA") dated 2.3.2015 and vesting order 104/18/2015/NA dated 23.3.2015 in respect of Gare Palma IV/7 Coal Mine at Karwahi, Teh, Tomnar, Dist- Raigad, Chattisgarh (hereinafter referred as "the Mine") issued by Government of India through Ministry of Coal, Office of Nominated Authority, 120, 1<sup>st</sup> Floor, Shastri Bhavan, New Delhi (Respondent) and also for an interim order staying the operation and effect of the termination letter dated 30.12.2017.

**Brief facts of this application.**

1. The applicant submits that this Bench declared moratorium on 18.7.2017 by admitting CP 1139/NCLT/MAH/2017 filed by State Bank of India for initiating Corporate Insolvency Resolution Process on Monnet Ispat & Energy Ltd (Corporate Debtor) under Section 7 of Insolvency & Bankruptcy Code, 2016 wherein, this Resolution Applicant was appointed to carry the duties and functions of the Resolution Professional during Corporate Insolvency Resolution Process and by virtue of that duty assigned to him, the Applicant has been constrained to approach this Bench for nullification of the termination notice issued by the Respondent on 30.12.2017 for termination of CMDPA dated 2.3.2015 and vesting order dated 23.3.2015.

2. The Applicant submits that the aforesaid Mine was allocated to the Corporate Debtor under Coal Mines (Special Provisions) Ordinance 2014 vide vesting order dated 23.3.2015 stating that the mining lease was granted on 17.8.2015 (but this applicant has not filed any document reflecting mining lease has been granted to the Corporate Debtor on 17.8.2015). The Applicant says since this Corporate Debtor became successful bidder in the auction of the mine conducted by the Respondent through Nominating Authority in accordance with Coal Mines Ordinance, 2014, CMDPA was entered in between the Corporate Debtor and the Respondent on 2.3.2015, in pursuance thereof, this Respondent issued a vesting order dated 23.3.2015 under Section 6 of Coal Mines (Special Provisions) Second Ordinance, 2014 ordering that on and from April 1, 2015 (vesting date) and in accordance with the provisions of Sub-Section (4) of Section 8 of the Ordinance, the rights as mentioned in the vesting order (Annexure "D" Page Nos. 94 to 96) shall stand fully and absolutely transferred and vested in the successful bidder, i.e. the Corporate Debtor herein. Thereafter, on 13.4.2017, the Respondent issued a Show Cause Notice to the Corporate Debtor to renew the performance security expired on 19.3.2017 in terms of Clause 6.1.5 of CMDPA within seven days of receipt of the said notice, again on 22.9.2017 another meeting was held by the Scrutiny Committee to examine the reasons leading to delay in operationalisation of the Coal Mine as well as non compliance of the milestones mentioned in CMDPA, to which, the Corporate Debtor on 26.9.2017 issued a letter to the Respondent stating that since the CIRP process has been initiated against it, it requested the Respondent to bear with the Corporate Debtor till a Resolution Plan is in place by January, 2018. Again on 20.10.2017, the Respondent issued another Show-Cause Notice dated 20.10.2017 to the Corporate Debtor calling upon it to show cause as to why action as per Clause 24.3.3 of CMDPA should not be taken against it for termination of the CMDPA and also vesting order in respect of the Mine. To which on 9.11.2017, the Corporate Debtor issued a reply notice stating that no termination could be affected against the Corporate Debtor owing to subsistence of moratorium by virtue of order passed under Section 14 of the Insolvency & Bankruptcy Code,



## IN THE NATIONAL COMPANY LAW TRIBUNAL, MUMBAI

MA 17/2018 in CP No.1139/IBP/NCLT/MAH/2017

2016. Despite the Resolution Professional made correspondence on 7.12.2017, 18.12.2017, he says, the Respondent issued the termination letter dated 30.12.2017 for termination of the CMDPA and also the vesting order which are mentioned above.

3. The Resolution professional now says that for CMDPA and the vesting order being arbitrarily terminated, duty is cast upon him to take appropriate direction against the Respondent, nullifying the show cause notice for termination of CMDPA and the vesting order.

4. Since the applicant Counsel has made an argument saying that the termination of CMDPA dated 2.3.2015 and the vesting order dated 23.3.2015 is hit by Section 14 (1)(d) of Insolvency & Bankruptcy Code, now the point for consideration is ***as to whether or not the termination order dated 30.12.2017 issued by the Respondent is hit by Section 14(1)(d) of Insolvency & Bankruptcy Code.***

5. Before going into effect of this proposition laid under Section 14(1)(d) of Insolvency & Bankruptcy Code, it is pertinent to go through 3-4 documents applicant relied upon to say that the Respondent shall not terminate CMDPA dated 2.3.2015 and the Vesting order dated 23.3.2015. Let us examine document-wise to find out bearing of those documents over the issue raised by the Applicant herein.

- (i) CMDPA dated 2.3.2015 : This document has been executed in between the President of India through Nominated Authority and the Corporate Debtor herein on 2.3.2015 under Section 6 of Coal Mines (Special Provisions) Ordinance, 2014 read with Coal Mines (Special Provisions) Second Ordinance, 2014 in lieu of the judgement dated 20.5.2014 read with its order dated 24.9.2014 passed by the Hon'ble Supreme Court of India cancelling allotment of 204 coal blocks. Thereafter for this Corporate Debtor in the auction held for the mine has been declared as successful bidder, it has become entitled to enter into this Agreement with the Nominated Authority pursuant to Rule 13(5) of the Rules with respect to allocation of the Coal Mine to the successful bidder.

On reading this Agreement (CMPDA) entered between the Respondent and the Corporate Debtor, it appears that the successful bidder has to comply with conditions for vesting, on such compliance, vesting order will be passed. In pursuance thereof, the Corporate Debtor has to comply with post vesting obligations which are commencement plan, payment of the upfront amount, execution of mining lease, none of them complied with. The Corporate Debtor, as per CMDPA, has to provide irrevocable and unconditional revolving guarantee for an amount equal to Rs.329,23,20,000, which the debtor failed to renew, and in case the debtor failed to adhere to other compliance, performance security could be



appropriated as envisaged under Clause 6.2 . Apart from these conditions, there is also a clause for termination of this Agreement on occurrence of various events mentioned in Clause 24.3 of this Agreement including failure of making payments, replenishing the performance security, non-compliance of efficiency parameters, dissolution, liquidation, insolvency or commitment of bankruptcy by the successful bidder and if the Government is of the view that this Agreement shall be terminated in the public interest, the Respondent herein can elect to terminate this Agreement by providing a 15 business days written notice to the successful bidder. Besides this termination clause, there are various clauses mentioning time is essence of the Agreement. After having gone through various clauses of this Agreement, it appears that right has been vested with the Government to terminate this Agreement as and when any of the events occurred which fall under clauses termed as "termination events", therefore, this Agreement cannot be construed as an Agreement conferring any leasehold rights or possessory rights to the Corporate Debtor to claim as rightful lessee of the mine.

- (ii) Vesting Order dated 23.3.2015 : This Vesting order has been passed under Section 6 of the Coal Mines (Special Provisions Second Ordinance), 2014 in favour of the Corporate Debtor considering it as successful bidder for utilisation of end use plant situated at the places mentioned in the Vesting order. It reflects that the Corporate Debtor has been declared as successful bidder entitling it to receive the vesting order with respect to the mine mentioned above. To comply with pre-vesting order conditions, the Corporate Debtor furnished a performance bank guarantee dated 28.3.2015 for an amount equal to INR 329,23,20,000 issued by State Bank of Patiala in accordance with the tender documents and also the provision of sub-section 6 of Section 8 of the Ordinance and sub-Rule 4 of Rule 13 of the Rules. In pursuance of the same, it has been said that the following rights in respect to the mine shall stand fully and absolutely transferred and vested in the successful bidder namely,

- (a) *all the rights, title and interest of the prior allottee in and over the land and mine infrastructure free from all encumbrances;*
- (b) *entitlement to a mining lease to be granted by the State Government with the terms and conditions of CMDPA forming a part of it on making an application;*
- (c) *all statutory licences, permits, permissions, approvals or consents as per rules, required to undertake coal mining operations in the mine, if already issued by the Central Government, to the prior allottee on the same terms and conditions as were applicable to the prior allottee, as listed in the Annexure 2;*



## IN THE NATIONAL COMPANY LAW TRIBUNAL, MUMBAI

MA 17/2018 in CP No.1139/IBP/NCLT/MAH/2017

- (d) *entitlement to any statutory licence, permit, permission, approval or consent required to undertake coal mining operations in the mine if already issued by the Central Government, to the prior allottee on make an application on the same terms and conditions as were applicable to the prior allottee, as listed in the Annexure 3;*
  - (e) *entitlement to any statutory licence, permit, permission, approval or consent required to undertake coal mining operations in the mine, if already issued by the State Government, to the prior allottee on making an application on the same terms and conditions as were applicable to the prior allottee, as listed in the Annexure 4;*
  - (f) *rights appurtenant to the approved mining plan of the prior allottee;*
  - (g) *any subsisting contract in relation to coal mining operations, to which the prior allottee was a party and which is assumed, adopted and continued by the successful bidder and listed in the Annexure 5 shall stand novated (by virtue of a deemed consent from the relevant party(ies)), in accordance with the provisions of sub-section (1) of section 11 of the Ordinance in favour of the successful bidder for the residual term or residual performance of such contract;*
2. *The successful bidder may seek any change in the terms and conditions attached to such licence, permit, permission, approval or consent by making an application in accordance with applicable laws;*
  3. *Hereinafter, the successful bidder shall be entitled to take possession of the mine as specified in Annexure 1 without let or hindrance;*
  4. *This vesting order is liable to be cancelled in accordance with the provisions of sub-rule (6) of rule 13.*

6. On examination of this document, a few things have taken place that the successful bidder is made free in respect to this mining from all encumbrances created by the prior allottee, entitlement to a mining lease to be granted by the State Government with the terms and conditions of CMDPA forming a part of it on making an application. So by seeing this entitlement, it is clear that the State Government, shall grant mining lease on an application moved by the Corporate Debtor alongwith this CMDPA, which this Corporate Debtor has so far not been granted. The entire argument the applicant counsel thrust upon is – possession of the mine has been delivered to this Corporate Debtor through this vesting order, but by careful reading of this order, it appears that the successful bidder (Corporate Debtor) is only given entitlement to take possession of the mine as specified in Annexure 1 without let or hindrance with a caveat saying that this vesting order is liable to be cancelled in accordance with the provisions of sub-Rule 6 of Rule 13. On this Rule, it has been said that vesting/allotment order shall be cancelled by the Nominating Authority in case of breach of the terms and conditions of CMDPA falling under Sub-Rule 5 of Rule 13. This is only the document the applicant relied upon to say that the possession of the mine has been given to the Corporate Debtor but in this document, it is evident that transfer or vesting is only in respect to the rights mentioned thereof but not for delivery of possession of the mine to the Corporate Debtor. It only says that this



## IN THE NATIONAL COMPANY LAW TRIBUNAL, MUMBAI

MA 17/2018 in CP No.1139/IBP/NCLT/MAH/2017

Corporate Debtor is entitled to take possession of the Mine. But to prove that this entitlement has been exercised by the Corporate Debtor, no material has been filed by this Applicant. Therefore, we are of the view that the substance of this document cannot be taken as a ground to say that possession of the mine has been delivered to the Corporate Debtor.

7. The correspondence that has been taken place in between the Respondent and the Corporate Debtor being in relation to show cause notice and replies, those documents need not be pinned down for examination to find out as to whether the possession has been delivered or the lease rights have been transferred.

(iii) Termination letter dated 30.12.2017: This document says that as per Schedule E of CMDPA application for the transfer of all the statutory clearances were to be made within one month from the vesting date and all the statutory clearances including mine opening permission were to be obtained within 3 months from the vesting date so that mine was supposed to be operationalised within 3 months of the vesting date (1.4.2015). It further says that the Corporate Debtor delayed and failed to achieve the milestones listed in Schedule E such as grant of mining lease, execution of mining lease, mine opening permission, permission from DGMS, Land mutation and such ancillary clearances like ground water clearance, explosive license. The Bank Guarantee given by the successful bidder in terms of 6.1.1 of CDMPA has expired on 19.3.2017 which is in violation of clause 6.1.5 of CDMPA. Accordingly, Show Cause Notice was issued to the corporate Debtor on 13.4.2017 for renewal of Bank Guarantee, but no renewal has happened till date. In another scrutiny meeting happened on 22.9.2017, it has been recorded that this Corporate Debtor failed to comply with the terms and conditions mentioned in CDMPA and also the vesting order, therefore issued a show cause notice on 20.10.2017 as to why CDMPA and also the vesting order be not terminated by recording that the Corporate Debtor is reluctant to execute the Mining lease and also unable to indicate any definite timeline for renewal of Bank Guarantee submitted as performance security. By the delay that has been happening, it has been recorded that there is an estimated loss of revenue of ₹314.3 crores (excluding royalty, taxes etc) to the State Exchequer annually therefore, as per Rule 13 (6) of the Coal Mines (Special Provisions ordinance), 2014 the vesting order shall be cancelled for the Corporate Debtor having defaulted complying with clauses of Clause 24.3.1 (f) (n) and (r) of CMDPA which constitute termination events. It has been stated that this notice has to be treated as notice given under Clause 24.3.2 of CMDPA, whereby on completion of notice period of 15 business days on 19.1.2018, the CMDPA and vesting order shall stand terminated and all the payments made by



the Corporate Debtor shall be appropriated and the Corporate Debtor shall not be entitled to any benefits under the CMDPA. On examination of this document, we have noticed that this Corporate Debtor failed to execute mining lease and also failed to renew Bank Performance Guarantee. Therefore, in the backdrop of these facts, we have noticed that no mining lease has been executed in between the Corporate Debtor and the Respondent/State Government and the Respondent has not sought for recovery of possession except stating for termination of CMDPA and vesting order after 15 business days from the date of the termination notice.

8. Now let us see the applicability of legal propositions against the factual background reflecting in the documents mentioned above. Section 14 of Insolvency & Bankruptcy Code, 2016 says as follows:

*"14. Moratorium*

*(1) Subject to provisions of sub-section (2) and (3), on the insolvency commencement date, the Adjudicating Authority shall by order declare moratorium for prohibiting all of the following, namely:-*

*(a).....*

*(b).....*

*(c)....*

*(d) the recovery of any property by an owner or lessor where such property is occupied by or in the possession of the corporate debtor.*

*(2).....*

*(3) the provisions of sub-section (1) shall not apply to such transactions as may be notified by the Central Government in consultation with financial sector regulator.*

*(4) ....*

*Provided.....".*

9. As to recovery of property clause is concerned, an owner of the property or lessor is prohibited to recover the property occupied or in possession of the Corporate Debtor. This prohibition is against the owner of the property or lessor who executed lease in favour of the Corporate Debtor. As this Bench has already made it clear that so far no lease deed has been executed in between the Corporate Debtor and the Respondent or the State Government to claim that mining right in respect to the mine has been transferred or leased to the Corporate Debtor. There is no document reflecting that the possession has been delivered to the Corporate Debtor by the Respondent except to the extent saying that the Corporate Debtor is entitled to take possession as specified in the vesting order. Moreover, this Respondent has not asked for recovery of possession, it has only stated that CMDPA and the vesting order will be terminated. Either the CMDPA or the vesting order will not per se become



instruments/documents reflecting delivery of possession of the mine to the Corporate Debtor. The termination letter also having not disclosed either demanding or seeking recovery of possession of the said property from the Corporate Debtor, it shall not be construed that termination notice has been given for recovery of the possession. Had an occasion arose the Respondent asking for recovery of possession from the Corporate Debtor, there could be an occasion to this Bench to see whether it fell under Section 14 (1) (d) of Insolvency & Bankruptcy Code or not. That being so, this applicant could not have sought such a relief before this Bench under the cover of show cause notice issued for termination of CMDPA for non-compliance of various clauses mentioned in the CMDPA. The Corporate Debtor cannot exercise his right as a Lessee because no mining lease has been executed between the Corporate Debtor and the Respondent. An assumption, contrary to the above situation, could not be drawn to say that the Corporate Debtor has been in the possession of the mine because the right of entitling possession of the mine has been exercised by this Corporate Debtor in pursuance of the vesting order given by the Respondent. Moreover, this termination order has nowhere disclosed that the possession has been taken by the Corporate Debtor so that termination of CMDPA and vesting order amounts to recovery of possession of the mine from the Corporate Debtor. By any event, for there being no material to say that this Corporate Debtor is a lessee or to say that Corporate Debtor is in possession of the property, no cause of action arose to this Bench to invoke jurisdiction under Section 14 saying that the Respondent has violated the moratorium declared under Section 14, whereby we have not found any merit in the grievance raised by the Applicant.

10. It is not out of context to mention that execution of CMDPA and passing vesting order will not tantamount to say that a right is conferred upon the corporate debtor to assume that the corporate debtor has become a leaseholder. As we all know, mining subject has been dealt with in Schedule VII of the Constitution of India under entries 53, 54 and 55 of the Union List, likewise, it is dealt with under entry 23 of the State List.

11. For this reason alone, after having vesting order passed, State Government, under ***MINES AND MINERALS (DEVELOPMENT AND REGULATION) ACT, 1957*** has to grant mining lease, in pursuance thereof, the successful bidder has to execute mining lease, which has not happened in this case. In this state enactment mentioned above, mining lease has been defined as "a lease granted for the purpose of undertaking mining operations, and [a reconnaissance permit, prospecting licence or mining lease] in respect of any land in which includes a sub-lease granted for such purpose".

12. In the said enactment itself, it has been mentioned in Section 10 of the aforesaid Regulation Act, 1957 that "an application for prospecting licenses or mining



lease in respect of any land in which the minerals vest in the Government shall be made to the State Government concerned in the prescribed form and shall be accompanied by the prescribed fee, where an application is received under sub-section (1), there shall be sent to the applicant an acknowledgment of its receipt within the prescribed time and in the prescribed form, on receipt of an application under this section, the State Government may, having regard to the provisions of this Act and any rules made thereunder, grant or refuse to grant the permit, licence or lease."

13. In the same enactment under Section 4, it has also been held that no person shall undertake any reconnaissance, prospecting or mining operations in any area, except under and in accordance with the terms and conditions of a reconnaissance permit or of a prospecting licence or, as the case may be, of a mining lease, granted under this Act and the rules made thereunder.

14. These provisions mentioned above are compatible with sub-section 8 of Section 8 of Coal Mines (Special Provisions) Act, 2015 for the simple reason that sub-section 8 says that upon the execution of the vesting order, the successful bidder (here it is Corporate Debtor) of the Schedule I Coal Mine shall be granted a prospecting license or a mining lease as applicable by the concerned State Government in accordance with the Mines and Minerals (Development and Regulation) Act, 1957. Unless such mining lease has been granted to the successful bidder, such bidder cannot make any operations basing on the vesting order given under sub-section 7 of Section 8 of the Coal Mines (Special Provisions) Act, 2015.

15. On giving a combined reading, along with CMDPA and vesting order, it is clear that this Corporate Debtor has not been conferred with any right for mining of the End Use Plants mentioned in the vesting order, therefore qua having CMDPA and vesting order in favour of the Corporate Debtor cannot be construed to say that this Corporate Debtor is in the possession of the property or has some leasehold right for mining the End Use Plants.

16. Another issue is, the right of mining allocation at the places mentioned in the vesting order is subject to various compliances, therefore, it can't be misconstrued that a right over the land possessing mine has been transferred to the corporate debtor and that will never be the case. If we closely see the language of the clause (d) of Section 14(1), it speaks of land present in the possession of the Corporate Debtor, in the given case, it has not been said anywhere the Corporate Debtor is entitled to possession of the land possessing mine or the land possessing mine has been delivered to the Corporate Debtor except to the extent of entitling the Corporate Debtor take possession of the mine subject to compliance as mentioned in Section 8



of the Coal Mines (Special Provisions) Act, 2015, Rules thereto read with Mines and Minerals **(DEVELOPMENT AND REGULATION) ACT, 1957**, not otherwise. Of course, in the factual matrix available, since there being no material reflecting possession has been delivered to the Corporate Debtor or the Respondent having given show cause notice seeking recovery of possession, as we said, there is no occasion to this Bench to pass a restrain order against the Respondent on the assumption the possession has been delivered to the Corporate Debtor and the Respondent sought recovery of possession, in view of the same.

17. To support the applicant case, the Applicant Counsel relied upon citation in between Ram Rattan vs. State of Uttar Pradesh (1977 AIR (SC) 619) that even if a person in possession is a trespasser, the true owner is not entitled to take forcible possession from the trespasser. This proposition is distinguishable on two grounds, one – it is a proposition decided in the context of the accused availing right of private defence in a criminal case, two – it is a proposition to be applied when the owner applies force in taking possession of the land from the trespasser. Of course the aforesaid proposition is true and correct in the context it was applied. but the same is not applicable in the present case for the facts are distinguishable from the facts of the case supra.

18. The Applicant Counsel relied upon citation in between Sopan Sukhdeo Sable vs. Assistant Charity Commissioner (2004 (3) SCC 137) to say that where a person in settled possession of property, even on the assumption that such person has no right to remain in property, he cannot be disposed by the owner except by recourse of law. This proposition is also distinguishable as against the facts of this case, because we have not seen anywhere that the Respondent has sought for recovery of possession for the Corporate Debtor or tried to dispossess the corporate debtor. As we said earlier, it has also not been found anywhere that this Corporate Debtor has been in the possession of the property except a clause saying that the Corporate Debtor shall be entitled to take possession of the mine, but such right cannot be considered as a clause reflecting that this Corporate Debtor acquired the possession of the End Use Plants. Therefore, the ratio decided in the case supra is not applicable to the facts of the present case.

19. Since the Applicant having given an impression that the relation in between the Respondent and Corporate Debtor is lessor and lessee, duty is upon the applicant to show that a Mining Lease has been executed in between the Respondent and the Corporate Debtor, which admittedly has not been executed between the State Government/Respondent and the Corporate Debtor. Even otherwise also, for there being no material showing possession has been delivered to the corporate debtor



## IN THE NATIONAL COMPANY LAW TRIBUNAL, MUMBAI

MA 17/2018 in CP No.1139/IBP/NCLT/MAH/2017

before execution of lease deed, or it has been in the possession of the mine, it can't be said that it will fall under Section 14(1)(d) of the Code.

20. In the termination notice itself, it has been mentioned that the Government has been incurring an estimated loss of revenue of ₹314.3 crores to the State Exchequer annually, and therefore the opinion of the Central Government for termination of CMDPA in view of public interest cannot be invalidated or stayed looking at a clause picked up by the Applicant from the vesting order.

21. Since the applicant has mentioned that, by virtue of Section 238 of Insolvency & Bankruptcy Code, there shall be overriding effect of this Code upon other laws and the provisions of the ordinance/Act shall not be given effect to as to this point is concerned, we are very clear that none of the provisions of the Coal Mines (Special Provisions) Act, 2015 are inconsistent with the provisions of this Insolvency & Bankruptcy Code, 2016, because the fields of operation of Insolvency & Bankruptcy Code and Coal Mines (Special Provisions) Act, 2015/Mines and Minerals (Development Regulation) Act, 1957 are altogether different, no overlapping effect, whereby the non-obstante clause present in this Code cannot invalidate the Acts impugned dealing with allocation of Coal Mine leasing rights. We have already held that the action of the Respondent in issuing termination notice is not hit by section 14 (1) (d) of Insolvency & Bankruptcy Code, 2016. Other considerations such as CIRP will come to halt in the event stay order is not given over the termination notice cannot become a consideration to stay or invalidate the termination notice given by the Respondent. In the Code itself, it has been categorically mentioned that if a notification comes from Government side in respect to any of the issues government concerned, then the provisions of 14(1) will not apply to the transactions notified by the Central Government. However, for there being no information in respect to issuing of any notice by the Government we have not invoked sub-section 3 of Section 14, but it is emphasized here to say that State will always remain on different footing in respect to the transactions Central Government concerned. It has already been mentioned in the Show Cause Notice itself that the Central Government wants to terminate CMDPA and the Vesting order for the sake of public interest.

22. In view of the reasons aforementioned, this Miscellaneous Application is hereby dismissed as misconceived.

Sd/-

V. NALLASENAPATHY  
Member(Technical)

Sd/-

B. S. V. PRAKASH KUMAR  
Member (Judicial)