

**NATIONAL COMPANY LAW APPELLATE TRIBUNAL,**  
**PRINCIPAL BENCH, NEW DELHI**

**Company Appeal (AT) (Insolvency) No. 1417 of 2022**

[Arising out of Order dated 11.11.2022 passed by the Adjudicating Authority (National Company Law Tribunal, Indore Bench, Court No. 1) in I.A. No. 200 of 2022 in CP(IB) No. 06(MP)2020]

**IN THE MATTER OF:**

**M/s. Jhanvi Rajpal Automotive Pvt. Ltd.,**  
293/3, Niranjanpur,  
Dewas Naka, Indore,  
Madhya Pradesh – 452010  
Email: [director.rajpalcars@gmail.com](mailto:director.rajpalcars@gmail.com)

**...Appellant**

**Versus**

**1. R.P. of Rajpal Abhikaran Pvt. Ltd.,**  
Mrs. Teena Saraswat Pandey  
293/2 Niranjanpur, A.B. Road,  
Indore, Madhya Pradesh – 452010  
Email: [ip.rajpalabhikaran@gmail.com](mailto:ip.rajpalabhikaran@gmail.com)

**...Respondent  
No. 1**

**2. Agarwal Real City Pvt.Ltd.**  
(Successful Resolution Applicant)  
2<sup>nd</sup> Floor, Agarwal House,  
5, Yashwant Colony, Y.N. Road,  
Indore, Madhya Pradesh – 452003  
Email: [arcplindore@gmail.com](mailto:arcplindore@gmail.com)

**...Respondent  
No. 2**

**Present:**

**For Appellant:** Mr. Abhijeet Sinha, Mr. Karthik Sundar, Mr. Aalok Kumar, Mr. Akash Chatterjee, Mr. Aditya Shukla, Advocates.

**For Respondents:** Mr. P. Nagesh, Sr. Advocate with Ms. Shraddha Deshmukh, Mr. Karan Valecha, Mr. Akshay Sharma, Advocates for R-1.

Mr. Sumesh Dhawan, Mr. Shaurya Shyam, Ms. Vatsala Kak, Ms. Soumya Singh, Mr. Praveen N.

Surange, Advocates for R-2.

## **J U D G M E N T**

### **ASHOK BHUSHAN, J.**

1. This Appeal has been filed challenging the Order dated 11.11.2022 passed by the Adjudicating Authority (National Company Law Tribunal, Indore Bench) in I.A. No. 200/2022 in C.P. (IB) No. 06/MP/2020 by which Order, Application filed by the Insolvency Professional and Chairman of the Monitoring Committee of the Corporate Debtor seeking direction to the Appellant to vacate the premises belonging to the Corporate Debtor in his possession has been allowed.

2. The Appellant being aggrieved by the order impugned has come up in this Appeal.

3. Brief facts of the case for deciding this Appeal are:-

- i. On 26<sup>th</sup> March, 2021, Corporate Insolvency Resolution Process was initiated against the Corporate Debtor-Rajpal Abhikaran Pvt. Ltd. In the Resolution Proceeding, Information Memorandum was prepared by the Resolution Professional in which the asset which is the ground floor of the premises situated at Niranjapur Dewas Naka, Indore was included in the assets of the Corporate Debtor. The premise that is ground floor of the building was let out to the Appellant by the Corporate Debtor by an unregistered lease deed on 01.11.2018 for a period of 11 months on a rent of Rs. 50,000/- per

- month. The Appellant was in possession of the premises prior to the initiation of CIRP as the lessee. Form-G was issued on 05.06.2021 in response to which two Resolution Plans were submitted including the Appellant as well as the Resolution Plan of Respondent No. 2.
- ii. In 10<sup>th</sup> CoC meeting held on 11.09.2021, CoC resolved to renew the lease in relation to the premises in question till December, 2021. A fresh lease deed dated 17.09.2021 was executed by Resolution Professional on behalf of the Corporate Debtor till 31<sup>st</sup> December, 2021 in favour of the Appellant.
  - iii. On 02.10.2021, Form-G once again was issued in response to which five Resolution Plans were submitted including the Resolution Plan by the Appellant as well as by the Respondent No. 2.
  - iv. 16<sup>th</sup> CoC meeting held on 06.12.2021-08.12.2021, CoC resolved to send a Legal Notice to the Appellant for vacating the premises. In pursuance of 16<sup>th</sup> CoC meeting, a Legal Notice was sent to the Appellant on 21/12/2021 which was replied by the Appellant on 29.12.2021 stating that continuance of the lease is essential for maintaining the corporate debtor as a going concern and further Appellant offered to hand over the possession of the property within 10 days upon final approval of the Resolution Plan for the Corporate Debtor. In 18<sup>th</sup> CoC Meeting held on 24<sup>th</sup> January, 2022, CoC decided to file a petition before the appropriate forum for

getting the said property vacated by the Appellant. The Resolution Professional in pursuance of the said meeting of 18<sup>th</sup> CoC, instituted a suit before Civil Judge –VII Indore seeking eviction of the Appellant and arrears of rent. On 01<sup>st</sup> July, 2022, the Adjudicating Authority while considering the Application for approval of the Resolution Plan directed the Resolution Professional to provide copies of the Resolution Plan to the suspended management and convene the meeting where the Resolution Plan may be deliberated. By a subsequent Order dated 25.08.2022, the Adjudicating Authority approved the Resolution Plan. The Civil Suit filed by the Resolution Professional for eviction and recovery of rent was disposed of as withdrawn by Order dated 05.09.2022.

- v. Against the Order dated 25.08.2022 approving the Resolution Plan, Appeals were also filed in this Tribunal, one by MP Commercial Tax Department and another by Suspended Management, in which Order was passed that any action taken in the meantime shall abide by the result of the Appeal.
- vi. The Appellant filed a Civil Suit before the Court of Civil Judge – XVIII Indore praying for permanent injunction against the Resolution Professional from taking over the said property either directly or through any person. Resolution Professional has filed I.A. No. 200/2022 under Section 60(5) read with Section 74 of the Code, read with Regulation 38(9) of the CIRP Regulation, 2016 and

Rule 11 of NCLT Rules for direction to remove the encroachment/trespass from the assets of the Corporate Debtor.

vii. The Resolution Professional after stating the events which took place in the CIRP prayed that the period of lease of the Appellant has come to an end on 31<sup>st</sup> December, 2021 and thereafter Appellant has not vacated the premises even though it was stated in his Reply dated 29.12.2021 that within 10 days of the approval of the Resolution Plan he shall vacate the premises. The Application was listed before the Adjudicating Authority, it was pleaded by the Appellant that the Resolution Professional has earlier filed a suit for eviction and arrears of the rent which was withdrawn on 05.09.2022 hence it is open for the Resolution Professional to file suit to take possession from the Appellant. It is submitted that under MP Accommodation Control Act, 1961 for eviction of the tenant, proceedings has to be drawn before the appropriate forum and the Adjudicating Authority had no jurisdiction to entertain the Application filed under Section 60(5) of the Code. After hearing the parties, the Adjudicating Authority has allowed the Application. In paragraph 5 of the Judgment, following has been held:

*“5. We have heard the learned counsels appearing for each of the parties and perused the documents available on record. It is noted that before the initiation of CIRP against the Corporate Debtor, the corporate debtor and respondent no. 1 entered into an agreement of*

*rent dated 01.09.2020 for 11 months. After admission of the corporate debtor into CIRP, the COC in its 10<sup>th</sup> meeting dated 11.09.2021 decided to renew the agreement of rent for further period of 5 months ending on 31.12.2021. As respondent no. 1 failed to pay the rent from September, 2021 to December, 2021, the COC in its 16<sup>th</sup> meeting dated 06.12.2021 resolved to terminate the rent agreement, and a legal notice dated 21.12.2021 was also served to respondent no. 1 to vacate the rented premises. In reply to the said notice respondent no. 1 agreed to handover possession of the rented premises within 10 days from the approval of the resolution plan from this adjudicating authority. The resolution plan submitted by respondent no. 2 (successful resolution applicant) was approved by this Adjudicating Authority vide order dated 25.08.2022. In spite, respondent no. 1 chose not to vacate the rented premises, as a result of which the resolution plan could not be implemented so far.*

*Accordingly, we are of the view that the only immovable property available with the corporate debtor is under the possession of respondent no. 1, and without handing over the possession of the said property the resolution plan cannot be implemented by respondent no. 2. The CIRP is a time-bound process. If the successful resolution applicant is left to run*

*around to vacate the premises by approaching different forums, that would cause unnecessary delay to implement the resolution plan and ultimately will defeat the very object of the code. Hence, in the interest of justice, we direct respondent no. 1 to vacate the said premises within 15 days from this order, so that the resolution plan could be implemented properly. If respondent no. 1 does not vacate it, the monitoring committee can seek the help of local police authority and the local police authority shall assist in getting the said premises vacated from the possession of respondent no. 1.”*

**4.** Mr. Abhijeet Sinha, Learned Counsel for the Appellant challenging the Order dated 11.11.2022 submits that the Adjudicating Authority had no jurisdiction to entertain the Application seeking direction to the Appellant to vacate the premises. The Appellant had been continuing in the premises under lease deed granted by the Corporate Debtor from 01.11.2018 and for eviction of the Appellant, proceedings has to be initiated by the Resolution Professional under the MP Accommodation Control Act, 1961. It is submitted that the Adjudicating Authority has no jurisdiction to direct the Appellant to vacate from the premises.

**5.** Learned Counsel appearing for the Respondent refuting the submissions of Learned Counsel for the Appellant submits that the premises is owned by the Corporate Debtor and lease of the Appellant which was renewed by the resolution of the CoC was only till 31<sup>st</sup>

December, 2021. The period of lease having come to an end on 31<sup>st</sup> December, 2021, the Appellant is not entitled to continue in the premises. The Adjudicating Authority has every jurisdiction to issue direction to the Appellant to vacate from the premises. It is submitted that in Reply dated 29.12.2021 to Legal Notice issued by RP to the Appellant to vacate from premises, the Appellant has offered to vacate the premises within 10 days from the approval of the Resolution Plan. Resolution Plan having been approved on 20<sup>th</sup> August, 2022, Appellant ought to have vacated according to his own offer given by the Appellant. It is further submitted that Adjudicating Authority had ample jurisdiction in the facts of the present case to entertain the application filed by the RP and the Order passed by the Adjudicating Authority is well within its jurisdiction. The Resolution Plan having been approved and to implement the Resolution Plan, premises has to be handed over to the Successful Resolution Applicant (SRA) which plan can not be allowed to be frustrated by the Appellant.

**6.** Mr. Sumesh Dhawan, Learned Counsel for the SRA submits that assets belong to the Corporate Debtor who owns the asset, appellant being lessee whose tenure of lease has come to an end, cannot continue in the premises. SRA cannot implement the Resolution Plan unless the possession of the premises is handed over which was also part of the plan of the Resolution Plan.

**7.** We have considered the submissions of Learned Counsel for the parties and have perused the record.



**8.** From the submissions of Learned Counsel for the parties and from the materials on record, following three questions arise for consideration in this Appeal:

- i. Whether the Adjudicating Authority had jurisdiction to entertain I.A. No. 200 of 2022 filed by the RP seeking direction to the Appellant to hand over the possession of the premises which premises was owned by the Corporate Debtor?
- ii. Whether the remedy of Resolution Professional for taking possession from the Appellant, whose lease had come to an end on 31<sup>st</sup> December, 2021 was only taking proceeding for eviction under MP Accommodation Control Act, 1961?
- iii. Whether the Committee of Creditors who have decided to renew the lease in favour of the Appellant till 31<sup>st</sup> December, 2021 had jurisdiction to issue legal notice for eviction of the Appellant from the premises in question?

**9.** The above three questions being inter-related, we proceed to consider the questions together.

**10.** When we recapitulate the facts of the present case, it is an admitted fact that the Corporate Debtor is the owner of the premises. The Corporate Debtor leased out the premises to the Appellant for a period of 11 months on 1<sup>st</sup> November, 2018 which was extended by another unregistered lease deed dated 1<sup>st</sup> September, 2020 for 11 months. The CIRP against the Corporate Debtor commenced on 26<sup>th</sup> March, 2021. The lease in favour of the appellant was coming to an end in August, 2021.

The CoC in its 10<sup>th</sup> CoC Meeting held on 11.09.2021 approved renewal of rent agreement of Appellant till December, 2021. In pursuance of decision of 10<sup>th</sup> CoC meeting lease in favour of the Appellant was renewed by the RP by executing lease deed dated 15.09.2021 till 31<sup>st</sup> December, 2021. It is relevant to notice clause 2,11 and 18 of the Rent Agreement which is to the following effect:

*“2. Period of Agreement: this agreement made on 17.09.2021 to give effect from 01.08.2021, the period of Agreement is 5 months i.e. from 01.08.2021 till 31.12.2021.*

.....

*11. Vacating Property: That the property owner/court officer is Second party whenever asks first party to vacate premises the First Party shall vacate the property in the same condition in case of any kind of damage, the said damages shall will be compensated to the Second party immediately hence will be borne by First Party.*

....

*18. Vacation of premises: If Second Party intends the First Party to vacate the said place, Second party will have to give a notice of 15 days in writing in advance and if the First Party intends to vacate the said place, then the first party will also given second party a similar written notice 15 days in advance.”*

**11.** The lease Agreement was not renewed after 31<sup>st</sup> December, 2021. CoC in its 16<sup>th</sup> Meeting held on 06-08.12.2021 resolved to issue legal notice to the Appellant for vacation of the premises in pursuance of the decision of the CoC, legal notice was issued by RP dated 21.12.2021

asking the Appellant to vacate the premises within 15 days. The legal notice dated 21.12.2021 was replied by the Appellant by letter dated 29.12.2021 where it was stated by the Appellant that he has not committed any breach of the terms of the agreement, he has also made every efforts to participate in the process to revive and submitted a Resolution Plan which is pending consideration. In the reply to legal notice, following was also stated by the Appellant:

*“Therefore, without providing para wise response to your Legal Notice, and reserving my right thereto, I, on behalf of M/s. Jhanvi Rajpal, undertake that M/s. Jhanvi Rajpal shall hand over peaceful possession of the subject premises in 10 days from the date of approval of Plan by the Hon’ble National Company Law Tribunal, Indore Bench, at Ahmedabad. Additionally, M/s. Jhanvi Rajpal shall continue to oblige the terms and conditions of the Rent Agreement till such date when the Hon’ble National Company Law Tribunal, Indore Bench, at Ahmedabad, approves the Plan as sanctioned/approved by the lenders. This undertaking by the undersigned is issued in an earnest manner and the undersigned believes that it appropriately reflects the good faith agreement both parties had arrived at while entering into an agreement. Further due to the nature of the undertaking, it is our behalf that it would also assist the Company M/s. Rajpal Abhikaran, to be a going concern till the plan is approved by the Hon’ble National Company Law Tribunal, which is the scheme of the insolvency law.”*

**12.** To answer the question as to whether the Adjudicating Authority had jurisdiction to entertain the Application filed by the Resolution Professional, we need to notice the statutory scheme under the IBC. Section 18 of IBC enumerated duties of the IRP. Section 18(1) (f) which is relevant for the present case is as follows:

*“18(1). The interim resolution professional shall perform the following duties:-*

*.....*

*(f) take control and custody of any asset over which the corporate debtor has ownership rights as recorded in the balance sheet of the corporate debtor, or with information utility or the depository of securities or any other registry that records the ownership of assets including-*

*(i) assets over which the corporate debtor has ownership rights which may be located in a foreign country;*

*(ii) assets that may or may not be in possession of the corporate debtor;*

*(iii) tangible assets, whether movable or immovable;*

*(iv) intangible assets including intellectual property;*

*(v) securities including shares held in any subsidiary of the corporate debtor, financial instruments, insurance policies;*

*(vi) assets subject to the determination of ownership by a court or authority;”*

**13.** The above provision empowers the IRP to take control and custody of any asset over which the corporate debtor has ownership rights. When

we look into the Section 18(1)(f)(ii), the duty is also to take control and custody of assets that may or may not be in possession of the corporate debtor. For carrying out the duties entrusted to the IRP under Section 18 of the Code and those entrusted on RP under Section 25, the IRP/RP can very well take recourse to Section 60. Section 60(5) of the Code is as follows:

*“60(5). Notwithstanding anything to the contrary contained in any other law for the time being in force, the National Company Law Tribunal shall have jurisdiction to entertain or dispose of-*

*(a) any application or proceeding by or against the corporate debtor or corporate person;*

*(b) any claim made by or against the corporate debtor or corporate person, including claims by or against any of its subsidiaries situated in India; and*

*(c) any question of priorities or any question of law or facts, arising out of or in relation to the insolvency resolution or liquidation proceedings of the corporate debtor or corporate person under this code.”*

**14.** For effectuating the duties entrusted on the IRP under Section 18 recourse to adjudicating Authority by filing an Application under Section 60(5) is fully permissible. In the present case, we are considering the case where there is no dispute that assets in question is owned by the Corporate Debtor hence by virtue of Section 18(1)(f), Resolution Professional can take steps for taking possession of the assets. To resist the case taken by the RP, Appellant contends that under Section 60(5), no Application can be entertained for eviction of the Appellant and the only

remedy available to the RP is to take proceedings under MP Accommodation Control Act, 1961. It is further relevant to notice that present is a case where renewal lease dated 17.09.2021 was executed by the RP himself for a period of 5 months till 31<sup>st</sup> December, 2021. The Appellant thus was permitted by the RP to continue with the Lease for five months till 31.12.2021 and we have already noticed the conditions in the rent agreement as extracted above. Paragraph 11 and 16 which clearly stipulated that first party is to vacate the premises when 15 days notice is given in writing. Renewal of the lease to the Appellant was with the approval of the CoC as noted above, RP cannot create any right in favour of the Appellant with regard to the assets of the Corporate Debtor without prior approval of the CoC as contained in Section 28(1)(k) of the Code. We have noticed above that CoC has taken decision to issue Legal Notice to the Appellant to vacate from premises.

**15.** Learned Counsel for the Appellant has placed reliance on several judgments of the Hon'ble Supreme Court and this Tribunal which we need to notice.

**16.** Learned Counsel for the Appellant has relied on Judgment of the Hon'ble Supreme Court in **[2020 13 SCC 308] "Embassy Property Developments Pvt Ltd. Vs. State of Karnataka & Ors."** In the above case, the Corporate Debtor was granted a mining lease by the State of Karnataka. Resolution Professional had filed a Writ Petition in the Karnataka High Court seeking declaration that mining lease should be deemed to be valid upto 31<sup>st</sup> March, 2020 in terms of the provisions of

Section 8(a)(vi) of MMDR Act, 1997. State of Karnataka had during the pendency of the writ petition passed an order on 26.09.2018 rejecting the proposal for deemed extension. The writ petition was withdrawn by the RP however instead of filing writ petition, he had filed an application before the NCLT, Chennai praying for setting aside the order of the government. NCLT Chennai after some litigation again allowed the Application and set aside the order of the Karnataka State against which writ petition was filed by the Government of Karnataka where an Interim Order was passed staying the order of the NCLT. Against the interim order of High Court on 12.12.2019 Appeals were filed before the Hon'ble Supreme Court which came to be dismissed. In the above background, the Hon'ble Supreme Court had occasion to consider the jurisdiction of the Adjudicating Authority. Paragraph 40-42 of the Judgment is as follows:

*“40. If NCLT has been conferred with jurisdiction to decide all types of claims to property, of the corporate debtor, [Section 18\(f\)\(vi\)](#) would not have made the task of the interim resolution professional in taking control and custody of an asset over which the corporate debtor has ownership rights, subject to the determination of ownership by a court or other authority. In fact an asset owned by a third party, but which is in the possession of the corporate debtor under contractual arrangements, is specifically kept out of the definition of the term “assets” under the Explanation to [Section 18](#). This assumes significance in view of the language used in [Sections](#)*

*18 and 25 in contrast to the language employed in Section 20. Section 18 speaks about the duties of the interim resolution professional and Section 25 speaks about the duties of resolution professional. These two provisions use the word “assets”, while Section 20(1) uses the word “property” together with the word “value”. Sections 18 and 25 do not use the expression “property”. Another important aspect is that under Section 25 (2) (b) of IBC, 2016, the resolution professional is obliged to represent and act on behalf of the corporate debtor with third parties and exercise rights for the benefit of the corporate debtor in judicial, quasi-judicial and arbitration proceedings. Section 25(1) and 25(2)(b) reads as follows:*

*“25. Duties of resolution professional – (1) It shall be the duty of the resolution professional to preserve and protect the assets of the corporate debtor, including the continued business operations of the corporate debtor.*

*(2) For the purposes of subsection (1), the resolution professional shall undertake the following actions:*

*(a).....*

*(b) represent and act on behalf of the corporate debtor with third parties, exercise rights for the benefit of the corporate debtor in judicial, quasi judicial and arbitration proceedings.”*

*This shows that wherever the corporate debtor has to exercise rights in judicial, quasijudicial proceedings, the resolution professional cannot short-*



*circuit the same and bring a claim before NCLT taking advantage of [Section 60\(5\)](#).*

*41. Therefore in the light of the statutory scheme as culled out from various provisions of the IBC, 2016 it is clear that wherever the corporate debtor has to exercise a right that falls outside the purview of the IBC, 2016 especially in the realm of the public law, they cannot, through the resolution professional, take a bypass and go before NCLT for the enforcement of such a right.*

*42. In fact the Resolution Professional in this case appears to have understood this legal position correctly, in the initial stages. This is why when the Government of Karnataka did not grant the benefit of deemed extension, even after the expiry of the lease on 25.05.2018, the Resolution Professional moved the High Court by way of a writ petition in WP No. 23075 of 2018. The prayer made in WP No. 23075 of 2018 was for a declaration that the mining lease should be deemed to be valid upto 31.03.2020. If NCLT was omnipotent, the Resolution Professional would have moved the NCLT itself for such a declaration. But he did not, as he understood the legal position correctly.”*

**17.** The above was a case where challenge was to the Order of the State Government rejecting the proposal for deemed extension. Challenge to the said order could not have been made before the Adjudicating Authority since it was the matter of judicial review of action of the State Government. It is also relevant to notice one important distinction of the present case from the case of “Embassy Property Pvt. Ltd.” (supra). The corporate debtor was only a lessee whereas in the present case, the lessee

is the Appellant and the corporate debtor is the owner of the assets. Corporate Debtor being owner of the assets as observed in paragraph 40 by the Hon'ble Supreme Court, NCLT has been conferred with jurisdiction to decide all types of claims to property, of the corporate debtor. Section 18(1)(f)(vi) provides "assets subject to the determination of ownership by a court or authority". In the present case, there is no applicability of clause (vi) of Section 18(1)(f) since there is no cloud over the title of the corporate debtor over the assets nor any dispute pertaining to ownership of assets is pending in any court or authority. The judgment in the case of "Embassy Property" (supra) does not come to the aid of the Appellant in the present case.

**18.** Learned Counsel for the Appellant has also relied on the Judgment in the case of "**K.L. Jute Products Pvt. Ltd. Vs. Tirupati Jute Industries Ltd.**" [2020 SCC OnLine NCLAT 426]. In the above case, the Adjudicating Authority by the Order dated 13.02.2019 rejected the approval of the Resolution Plan. Adjudicating Authority has noticed that one of the clause in Resolution Plan was that agreement between the Corporate Debtor and Dakh Jute LLP dated 01<sup>st</sup> August, 2016 need to be cancelled. The lease in the above case was for a period of 9 years. In the above context, this Tribunal took the view that the lease could not have been terminated by an Order of the Adjudicating Authority. In paragraph 2 of the Judgment of this Tribunal, the order of the Adjudicating Authority was noted, in paragraph 24 of the Order of the adjudicating Authority, following was mentioned "it is also not in dispute that lease

agreement in between the corporate debtor and M/s. Dakh Jute LLP is still subsisting” lease having been granted for 9 years with effect from 01<sup>st</sup> August, 2016, in reference to the facts of the said case, the Adjudicating Authority refused to approve the plan. Following observations were made in paragraph 64-66:

*“64. It is well settled that the Resolution Professional is required to examine and confirm the Resolution Plan subject to the same being in conformity with the ingredient of Section 30(2) of the Code. A Resolution Professional can submit his ex facie opinion to the 'Committee of Creditors' that the law was or was not violated. It is true that the Section 30(2)(e) of the Code does not authorise the Resolution Professional to determine whether the Resolution Plan does or does not violate the relevant provisions of Law.*

*65. In reality, ascribing conditions in the 'Resolution Plan' by the Appellant/Resolution Applicant is an unacceptable one, in the considered opinion of this Tribunal. Therefore, the Adjudicating Authority in the impugned order came to the right conclusion that the plan of the Resolution Applicant/Appellant was in negation of Law.*

*66. Insofar as, the eviction of 2nd Respondent is concerned, the Adjudicating Authority is not empowered to pass an order of eviction and it is for an 'Aggrieved party' to move the appropriate forum for redressal of its grievances in accordance with Law. In short, the Committee of Creditors had approved the*

*Resolution Plan in utter disregard regard to the ingredient of Section 30(2)(e) of the I&B Code and as hence the same was rejected by the Adjudicating Authority. Moreover, the Adjudicating Authority had appointed a 'Liquidator' other than the 'Existing Resolution Professional'."*

**19.** The present is not a case where lease in favour of the Appellant is subsisting. The lease has come to an end on 31<sup>st</sup> December, 2021. Further the lease renewal in favour of the Appellant was by RP himself on 17.09.2021 (Fresh Lease) which lease contained specific clause for eviction by 15 days' notice.

**20.** Accepting the contention of the Learned Counsel for the Appellant that RP is obliged to file a suit for eviction of the Appellant under MP Accommodation Control Act, 1961 even though lease in favour of the Appellant has expired shall be unduly prolonging the insolvency process which is a time bound process. When the Corporate Debtor has the ownership rights over the premises which premises can be taken in control by IRP/RP, we are of the view that for eviction of the Appellant especially in event when lease in favour of the Appellant has come to an end, filing a suit is not contemplated in the statutory scheme contained in IBC.

**21.** Thus, the contention of the Appellant that RP has to file a suit for eviction of the Appellant under the MP Accommodation Control Act, 1961 can not be accepted. We thus, in view of the foregoing discussions are of the considered opinion that Adjudicating Authority has rightly allowed

the Application filed by the RP directing the Appellant to vacate from the premises so that Resolution Plan which has been approved can be implemented. We thus do not find any merit in the Appeal, the Appeal is dismissed.

**[Justice Ashok Bhushan]  
Chairperson**

**[Dr. Alok Srivastava]  
Member (Technical)**

**[Barun Mitra]  
Member (Technical)**

**NEW DELHI**

**05<sup>th</sup> January, 2023**

*Basant*