

NATIONAL COMPANY LAW APPELLATE TRIBUNAL
NEW DELHI

COMPANY APPEAL(AT)(INSOLVENCY) NO.120 OF 2018

IN THE MATTER OF:

M/s Shivkala Developers Pvt Ltd

Appellant

Vs

Noble Cooperative Bank Ltd.

Respondent

Present: For Appellant:- Mr.Hrishikesh Baruah, Mr Siddhant Kaushik, Ms Radhika Gupta, Advocates.

For Respondents: - None.

O R D E R

06.04.2018 - Learned counsel for the appellant prays for and is allowed to delete 1st appellant M/s Shivkala Developers Pvt Ltd from the arena of appellant and to transpose it as 2nd respondent i.e. M/s Shivkala Developers Pvt Ltd through Interim Resolution Professional. Necessary correction be made in the course of day in the paper book.

Learned counsel for the appellant submits that the application preferred by respondent, financial creditor, under Section 7 of the Insolvency & Bankruptcy Code, 2016 was admitted, without notice to the corporate debtor. If notice would have been received it could have been shown that the financial creditor has given the loan to the erstwhile Directors and not to the corporate debtor. As the aforesaid fact was not brought to the notice of the Adjudicating Authority, the application was wrongly admitted.

Let notice be issued on respondents by speed post. Requisites alongwith process fee, if not filed, be filed by Monday, 9.4.2018. If the appellant provides the email address of the respondents, let notice be also issued through email. Learned counsel for the appellant will serve a copy of the paper book on all respondents alongwith the copy of this order.

Post the matter on 3rd May, 2018.

In the meantime, Interim Resolution Professional (IRP) will ensure that the company remains on going and the company do not suffer, payment of wages to the employees/workmen are made on time. If so necessary, the Insolvency Resolution Professional will take aid of (suspended) Board of Directors. The Bank having account of the corporate debtor will also cooperate with the Insolvency Resolution Professional to ensure compliance of this order.

(Justice S.J. Mukhopadhaya)
Chairperson

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