

NATIONAL COMPANY LAW APPELLATE TRIBUNAL, NEW DELHI

Company Appeal (AT) (Insolvency) No. 156 of 2018

IN THE MATTER OF:

Sunil Jain

...Appellant

Vs.

Punjab National Bank & Ors.

...Respondents

Present: For Appellant: - Mr. Gautam Singh, Advocate

**For Respondents:- Mr. R.P.Agarwal and Mr. Sunny Verma
with Mr. Arvind Jha, Advocates for R-2**

Mr. Shailendra Singh, Ms. Garg, Advocate for R-10

Mr. Joy Saha, Sr. Advocate, Mr. Avishek Guha, Advocates,

Mr. Arun Gupta, Resolution Professional

Mr. Eadapurna Mukerjee, Advocate

Company Appeal (AT) (Insolvency) No. 180 of 2018

IN THE MATTER OF:

Prakash Chand Jain

...Appellant

Vs.

Punjab National Bank & Ors.

...Respondents

Present: For Appellant: -Mr. Aditya Singh, Advocate

**For Respondents:- Mr. Arun Kathpalia, Sr. Advocate and Mr.
Ranjan Kumar Pandey, Mr. Arijit Majumdar, Mr. Aditya Dhar,
Mr. Shailender Singh, Advocate for R-7 and Mr. Garg,
Advocate for R-10**

ORDER

10.07.2018— Apart from the other questions, one of the questions arises for consideration in this appeal is whether the Clause 6 of Resolution Plan (Para 13) which relates to proposal of 100% shareholder by the Corporate Debtor, extinguishing rights of all existing equity shareholders of the Corporate Debtor and to issue fresh equity shares with the Resolution Applicant is against the provisions of Section 30(2)(e) of the Insolvency and Bankruptcy Code, 2016 (hereinafter referred to as 'I & B Code' 2016).

If the said provision is treated to be a proposal which will be acted upon after completion of the Resolution Process then one may argue that the same is not against any of the existing law, as action will be taken for extinguishing the share following the provisions of the law. On the other hand, if Clause 6 aforesaid is treated to be a plan amounting to extinguishing the rights of the equity shareholders of the Corporate Debtors, without paying any amount for their equity shares, one may argue that the same is against the provisions of the Companies Act and thereby against the provisions of Section 30(2)(e) of the 'I & B Code' 2016.

To hear the issue, we allow the learned counsel for successful Resolution Applicant to address the question and if so required, may file additional reply affidavit explaining the position.

Post the case for admission after notice on 25th July 2018 as first case.

In the meantime, it will be open to the Resolution Professional,

Adjudicating Authority, Successful Resolution Applicant and other stakeholders to proceed in accordance with law which will be subject to the decision of this appeal. The Interim Order passed on 13th March 2018 stands modified to the extent above.

(Justice S.J. Mukhopadhaya)
Chairperson

(Justice Bansi Lal Bhat)
Member(Judicial)

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