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IN THE NATIONAL COMPANY LAW TRIBUNAL : NEW DELHI

COURT-III

IB- 401/ND/2017

In the matter of :

Mr. Deepak Khanna

Vs.

Earth Infrastructure Ltd

.. PETITIONER

..RESPONDENT

SECTION

Under Section 7 of IBC, 2016

Order delivered on 18.3.2019

Coram :

Sh. R. Varadharajan,

Hon'ble Member (Judicial)

Ms. Deepa Krishan,

Hon'ble Member (Technical)

For the Petitioner /Op. Creditor : Mr. Abhay Pratap Singh, Ms. Shubhagni Jain,
Advocates. Ms. Aliya Durafshan, Mr. Manish Paliwal, Mr.
Gaurav Singh, Mr. Vikas Kumar, Advocates
Ms, Suchita Mukhopadhyay, Ms. Sumana Ray
Chaudhuri, Mr. Ritwik Parekh, Advocates, Mr. Gulshan Gaba, AR of
Home Buyers
Mr. Surinder Kumar, IRP, Mr. Madhu Juneja

For the Respondent/Corporate Debtor :

For the Intervener : Ms. Simraj Sharma, Advocate for HDFC, Mr. Ashish Mukhija
& Mr. Anurag Bhatt, Advocates for Committee of Creditors.

ORDER

Learned Counsels for the parties are present. In CA No.69/C-III/ND/2019 which has been filed by the I.R.P. Mr. Surinder Kumar, appointed at the time of admission of the petition filed by the Financial Creditor on 06.6.2018, under Section 12(2) of the IBC, 2016. From the averments made in the application, it is seen that in the circumstances which have arisen in relation to the Corporate Insolvency Resolution Process (CIRP), the Home Buyers being in a overwhelming majority as Financial Creditors having a representation of more than 99% of the voting strength in the Committee of Creditors of the Corporate Debtor and under the circumstances, ^{there} being numerous ~~several~~ ^{which} litigations have also been



8.4.19

Contd.

initiated by these Financial Creditors based on which directions had been given by this Tribunal in effect of a stay being ^{granted} which was subsequently vacated [✓]
a ~~dated~~ on 04.10.2018 and in the circumstances, a delay has occasioned in relation to the CIR process to be completed on 28.1.2019 and since there is a possibility of Resolution in relation to the Corporate Debtor, its CIRP should be extended for a further period of 90 days under Section 12(3) of the IBC, 2016. It is further represented by Ld. IRP in the application that the Resolution for extension of CIRP was approved by the Committee of Creditors (COC) on 30.12.2018 with 69.67% ^{voiting} over and above as mandated under the provisions of IBC, 2016 under Section 12 (2) of the IBC, 2016. Since the request of extension of CIRP is sought for on genuine grounds, the CIRP period is extended by further 90 days on and from 29.01.2019 and this application stands allowed.

In relation to CA-415/C-III/ND/18, which has been moved under Section 22(3) (B) of the IBC, 2016 by a Member of Committee of Creditors (COC) in a Resolution passed by the Home Buyers seeking for the change of IRP as proposed by the COC in the meeting held on 05.12.2018 and the Resolution Professional (RP) proposed by the COC is one Mr. Aakash Singhal which stands approved by the COC and whose registration Number is IBBI/IPA-001/IP/P-00137/2017-18/10279 in place of the present IRP, Mr. Surinder Kumar. The present IRP, Mr. Surinder Kumar does not have any objection to change as sought for and the proposed name as given in the abovesaid application, however, subject to the Application which has been filed in CA-148/C-III/ND/2019 by the IRP (namely, Mr. Surinder Kumar) wherein a claim has been raised in relation to the fees. It is further pointed out by Ld. R.P. that the claim of Rs. 5 Lakhs has been raised but only a sum of Rs. One lakh has been approved by the COC and the facts in relation to the same have been brought out in CA No.148/C-III/ND/2019.

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Since the instant Application in CA-415/C-III/ND/2018 is for the change of RP as proposed and approved by the COC and since Mr. Surinder Kumar, the present IRP does not have any objection for the change of IRP to the proposed RP as proposed by the COC, namely, Mr. Aakash Singhal, he is appointed henceforth as the Resolution Professional (RP), who will carry out the process in relation to Corporate Insolvency Resolution of the Corporate Debtor as contemplated under the provisions of IBC, 2016. The outgoing IRP Mr. Surinder Kumar shall hand over the records which have been collated/collected hitherto during the course of CIR period of the Corporate Debtor to the incoming R.P. and obtain a discharge from the incoming RP Mr. Aakash Singhal. Valuation reports, if any, will also be handed over to the incoming R.P. Let fortnightly report be placed before this Tribunal by the R.P. in relation to CIRP without fail about its progress.

In relation to the fees of the outgoing R.P, the same will be decided in CA-148/C-III/ND/2019 and the order is reserved in relation to the said application as the representation of Ld. IRP in this regard has been heard in detail.

Further, in relation to claims of Home Buyers/Financial Creditors, for which, several Applications have been filed for non-acceptance of the same by the present IRP Mr. Surinder Kumar, the same shall be considered by the incoming R.P. Mr. Aakash Singhal and decided according to merits of all the claims within 7 days. All the applications shall be considered by the incoming R.P. within a week from today as the main grievance in these applications relate to the processing of the claims and being procedural.

Dasti process,

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MEMBER (TECHNICAL)

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(R. VARADHARAJAN)
MEMBER (JUDICIAL)

Surjit
18/4/2019



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[Handwritten signature] 8/4/2019
वू.वि.नं. राजू / V.V.B. RAJU
उप पंजीयक / DEPUTY REGISTRAR
राष्ट्रीय कम्पनी विधि अधिकरण
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