

NATIONAL COMPANY LAW APPELLATE TRIBUNAL, PRINCIPAL BENCH,
NEW DELHI

Company Appeal (AT) (Ins) No. 940 of 2023 &
I.A. No. 3211 of 2023

IN THE MATTER OF:

Ratnarup Projects Pvt. Ltd.

...Appellant

Vs.

Tamanna Hotels Pvt. Ltd.

...Respondent

Present:

For Appellant: CA Tarun Arora

For Respondent:

ORDER

01.08.2023: Heard Learned Counsel for the Appellant.

This Appeal has been filed against the order dated 03.03.2023 by which order, the Adjudicating Authority has rejected Section 9 application filed by the Appellant.

3. The Appellant's case is that they were given construction work and that they have completed substantial work of the construction, when they raised the bill, the payment was not made when the Corporate Debtor wanted to give the remaining work to some other Contractor an injunction suit was also filed by the Operational Creditor.

4. The Adjudicating Authority after hearing the parties, came to the conclusion that there was a pre-existing dispute between the parties which require further enquiry, hence, the application cannot be admitted.

5. Learned Counsel for the Appellant submits that there was no dispute and the injunction suit was filed at the stage when the Corporate Debtor wanted to give the remaining work to some other contractor. He submits that

payments were not made and cheques were also dishonoured for which Section 138 and Negotiable Instrument Act proceedings were also initiated.

We have considered the submissions and peruse the records.

6. The fact that during the period of contract, the Corporate Debtor intended to give remaining work to some other contractor which was sought to be enjoined by filing a suit on 07.12.2018 i.e. much before the Demand Notice issued u/s 8 i.e. on 10.10.2020, we are of the view that there was clear dispute between the parties and Adjudicating Authority did not commit error in rejecting Section 9 application. It is, however, open for the Appellant to take such remedy as available in law for the amount which according to the Appellant is due on the Corporate Debtor as per the Agreement.

With these observations, ***the Appeal is dismissed.***

[Justice Ashok Bhushan]
Chairperson

[Mr. Barun Mitra]
Member (Technical)

ss/nn