

ITEM NO.29+42 Court 4 (Video Conferencing)

SECTION IV-B

S U P R E M E C O U R T O F I N D I A  
R E C O R D O F P R O C E E D I N G S

Petition(s) for Special Leave to Appeal (C) No(s). 7842/2021

(Arising out of impugned final judgment and order dated 27-05-2021 in COCP No. 1131/2021 passed by the High Court Of Punjab & Haryana At Chandigarh)

CHANDRA PRAKASH

Petitioner(s)

VERSUS

M/S ORRIS INFRASTRUCTURE PRIVATE LIMITED &amp; ORS. Respondent(s)

(FOR ADMISSION and I.R. and IA No.69613/2021-EXEMPTION FROM FILING C/C OF THE IMPUGNED JUDGMENT and IA No.69611/2021-PERMISSION TO FILE ADDITIONAL DOCUMENTS/FACTS/ANNEXURES )  
WITH

SLP(C) No(s). 7712/2021

(FOR ADMISSION and I.R. and IA No.68554/2021-EXEMPTION FROM FILING C/C OF THE IMPUGNED JUDGMENT and IA No.68555/2021-PERMISSION TO FILE ADDITIONAL DOCUMENTS/FACTS/ANNEXURES..

Date : 01-07-2021 These petitions were called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE A.M. KHANWILKAR  
HON'BLE MR. JUSTICE SANJIV KHANNA

For Petitioner(s) Mr. Neeraj Kishan Kaul, Sr. Adv.  
Mr. Ritin Rai Sr. Adv.  
Mr. Sanjay Bhatt, Adv.  
Mr. Sumit Nagpal, Adv.  
Ms. Niharika Sharma, Adv.  
Mr. Karan Kohli, Adv.  
Mr. Ramachandra Madan, Adv.  
Mr. Rabin Majumder, AOR

For Respondent(s) Mr. Maninder Singh, Sr. Adv.  
Ms. Jyoti Taneja, Adv.  
Ms. Aastha Mehta, Adv.  
Mr. Prabhas Bajaj, Adv.  
Ms. Vishakha, Adv.  
Mr. Atul Kumar, AOR

Intervenor(s) Mr. Ravi Gupta, Sr. Adv.  
Mr. Venket Rao, Adv.  
Mr. Sanyat Lodha, AOR  
Ms. Remya Ronald, Adv.

Mr. Gaurav Sharma, AOR

UPON hearing the counsel the Court made the following  
O R D E R

SLP(C) NO.7842/2021

Issue notice, returnable in six weeks.

Mr. Atul Kumar, learned counsel appearing on  
caveat, waives notice for respondent No.1.

Notice be issued to remaining respondents.

*Dasti*, in addition, is permitted.

Until further orders, there shall be stay of  
operation of the impugned judgment and order.

SLP(C) No(s). 7712/2021

After having heard learned counsel for the parties, we find that the root-cause of the issue before us is that respondent No.1, Orris Infrastructures Pvt. Ltd. (OIPL), was not heard by the National Company Law Tribunal (NCLT) before passing the order dated 15<sup>th</sup> April, 2021. As a result, OIPL had to file writ petition before the High Court being Writ Petition No.5666 of 2021 to assail the said order.

It is not necessary for us to dilate on the question whether such writ petition is maintainable

or ought to be entertained by the High Court when statutory remedy of appeal against the order passed by the NCLT has been provided for under the statute.

To bring quietus to the controversy, the arrangement that we propose may be the most useful way of resolving the grievances and also facilitate early disposal of the proceedings filed under Insolvency and Bankruptcy Code (IBC) so as to adhere to the statutory timeline specified therefor.

We permit the writ-petitioner (OIPL) to move the NCLT by way of a formal application, to be filed within one week, for reconsideration of order dated 15.04.2021 and, in particular, the grievance that it would not be open to the Interim Resolution Professional (IRP) to deal with the escrow account created by the High Court.

The NCLT would also decide all other issues including as to whether the proceedings under Real Estate (Regulation and Development) Act (RERA Act) and orders passed therein will have any bearing on the proceedings initiated before the NCLT under IBC.

All contentions in that regard can be considered by the NCLT on its own merits and in accordance with law.

We direct the NCLT to ensure that the proposed application to be filed by the writ petitioner-OIPL is decided expeditiously, preferably within two weeks from the date of presentation/filing, and until such time status quo with regard to the escrow account, referred to above, be maintained subject to above. However, the NCLT may for reasons to be recorded issue specific directions as considered necessary, even when the application is pending.

In view of the above arrangement, nothing remains for consideration in the writ petition filed by the writ petitioner-OIPL, which is deemed to have been disposed of in terms of this order. The High Court of Delhi be informed accordingly. Ordered accordingly.

We, however, make it clear that the order passed by the NCLT will be open to challenge by way of appropriate proceedings as may be permissible in law.

We again clarify that all contentions

available to both sides are left open to be decided by the NCLT on its own merits.

Further, this arrangement is not an expression of opinion either way on the order passed by the NCLT dated 15.04.2021.

Counsel appearing for the concerned parties have assured this Court that full cooperation will be given to the NCLT for early disposal of the proposed application by OIPL.

The special leave petition and pending applications are disposed of accordingly.

(NEETU KHAJURIA)  
COURT MASTER

(VIDYA NEGI)  
COURT MASTER