

NATIONAL COMPANY LAW APPELLATE TRIBUNAL, PRINCIPAL BENCH,
NEW DELHI

Company Appeal (AT) (Ins) No. 701 of 2023

IN THE MATTER OF:

Pawan Kumar Manguturam Bairagra

...Appellant

Vs.

Encore Asset Reconstruction Company Ltd.

...Respondent

Present:

For Appellant: Appearance not marked

**For Respondent: Mr. Sudhir Makkar, Sr. Advocate, Mr. Tushar John,
Advocates for R-1**

**Mr. Mohit Chaudhary, Mr. Prakhar Mittal,
Intervenors**

ORDER

16.08.2023: Learned Counsel for the Appellant submits that it is already recorded in the order of the Court that the Appellant is ready to pay the amount of Rs. 24.10 crores as also agreed by the Respondent. The issue between the parties was regarding the time of payment. In the order of this Tribunal dated 05.07.2023 and 28.07.2023 the following was noticed:-

*“05.07.2023: Learned Counsel for the
appellant referring to the affidavit submits that
appellant is still ready to pay the amount of Rs.
24.10 crores, however, they require six months*

time. It is further submitted that the appellant has also given an offer to the Bank to sell the mortgage property for which reserve price of the failed notice is Rs. 23 crores. Learned Counsel for the Respondent submits that the six months time is a too long period and in event the appellant is ready to pay within three months, the Respondent shall accept the offer with 25% up front. It is further submitted that Respondent Bank shall also permit the appellant to sell the mortgage property subject to the condition that the proceeds of sales shall be utilized only for the purpose of the payment of above amount. Learned Counsel for the Appellant seeks time to obtain instructions.

List this appeal on 10th July, 2023.

Interim order to continue.”

“28.07.2023: Learned counsel for the Appellant and the Respondent submits that the parties have finally settled the issue. It is submitted that in the settlement 10% amount shall be paid upfront, 10% shall be paid in 30 days of signing the agreement of amount

already settled. Learned counsel submit that the Settlement Agreement shall be filed by 31.07.2023. List this Appeal on 01.08.2023. Interim order to continue”.

2. We have also noticed in the earlier order that the Respondent was agreeable that the Appellant may sell the mortgaged property provided that sale proceed shall be deposited with the Respondent.

3. In view of the aforesaid, we grant three months’ time to the Appellant to deposit the entire amount in the FDR in the name of the Registrar, NCLAT within three months. We further permit the Appellant to sell the mortgaged property subject to the condition that the entire amount be deposited with the Respondent and the balance amount reduced from Rs. 24.10 crores be deposited. Let the Appellant comply the aforesaid directions within three months’ period as allowed.

4. In the meantime, in pursuance of the Impugned Order, the CoC shall not be constituted.

List this Appeal after three months i.e. on **20.11.2023**.

RP shall not take further steps in the CIRP.

5. Learned Counsel for the parties submit that the Respondent shall not have recourse against the guarantors and the guarantors shall not have the recourse against the Respondent.

[Justice Ashok Bhushan]
Chairperson

[Mr. Barun Mitra]
Member (Technical)

ss/nn