

**Company Appeal (AT)(Insolvency) No. 1436-1437 of 2022 &
I.A. No. 958, 959 & 1847, 1850 of 2023**

Ms. Ayshwarya Chander, Mr. Parag Rai,
Advocates.

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that order dated 14.11.2022 was challenged in the Hon'ble Bombay High Court and thereafter SLP has been filed which is pending before the Hon'ble Supreme Court. Learned counsel for the Appellant submits that he shall seek leave of the Hon'ble Supreme Court to withdraw the SLP to challenge this order in this Appeal.

2. In view of the aforesaid, let prayer (b) be deleted from this Appeal with liberty to the Appellant to file appropriate application, if any occasion arises.

3. This Appeal has been filed challenging order dated 23.11.2022 passed by the Adjudicating Authority admitting Section 7 application filed by the Canara Bank. Learned counsel for the Appellant submits that a Scheme of Arrangement under Section 230 of the Companies Act has already been submitted with regard to sister concern of the Corporate Debtor namely 'Supreme Infrastructure India Ltd.' in which Canara Bank is also a Financial Creditor. It is submitted that the documents pertaining to the Scheme were sought to be filed before the Adjudicating Authority which liberty was

not granted. He submits that in the Scheme the immovable property namely Supreme Business Park is also mentioned for the purposes of discharge of charge of other Financial Creditors. An affidavit has been filed by the Appellant in this Appeal namely 'Affidavit cum Understanding on behalf of the Appellant' in Para 12, 13 and 14 of the affidavit following has been stated:

"12. I say that the Respondent has exclusive mortgage over the asset whose valuation is mentioned above. I say that as per the Form 1 as filed by the Respondent (Annexure A-3 of the Appeal), the allegedly recoverable amount is mentioned as INR 368,85,54,194.56/-.

13. I say that the Scheme envisages payment of dues (inclusive of principal and interest) to the Respondent upon the monetization of the said asset, as the Respondent is the exclusive first charge holder of the said asset.

14. I say that in case the above factual position is not clarified by the Scheme (as annexed with the present Appeal), I undertake to liquidate the

entire dues of the Respondent upon monetization of the asset in terms of the Scheme mentioned above.”

4. Learned counsel for the Appellant submits that the Scheme’s first motion has been directed and voting is likely to be held in December, 2022 and in event, Scheme is approved the assets which are mortgaged with Canara Bank shall be monetized and entire dues of the Respondents shall be liquidated qua the Corporate Debtor – ‘Supreme Housing and Hospitality Pvt. Ltd.’.

5. Learned counsel for the Bank submits that in the Scheme the Canara Bank is already being offered and assets of the Corporate Debtor are being dealt in the Scheme.

6. In view of the fact and submissions as noted above, we are of the view that the result of the Scheme is to be awaited for the purposes of maximization of the value of the assets and resolution of the dues of the Canara Bank.

7. Issue notice. Let the Reply be filed within three weeks. Rejoinder be filed within two weeks.

8. *List this Appeal on **25.01.2023**.*

9. *In the meantime, no further steps shall be taken in pursuance of the order dated 23.11.2022.”*

2. In this appeal an IA No. 3855 and 3856 has been filed along with which letter of the Canara Bank dated 21.08.2023 has brought on record by which order Canara Bank has accepted the proposal for OTS submitted by M/s. Supreme Housing & Hospitality Pvt. Ltd., the Corporate Debtor in the present case.

3. The two IAs have been filed being IA No. 18472 and 1850 by SRS Private Investments Powai Ltd. seeking intervention in the matter. Another IA has been filed by ICICI Bank being IA Nos. 356-359 of 2023 also claimed to be Financial Creditor of the Corporate Debtor.

4. Learned Counsel for the Appellant as well as Learned Counsel for the Canara Bank submits that in view of the acceptance of the ‘One Time Settlement’ (OTS) the Canara Bank does not intend to proceed with the CIRP any further.

5. Learned Counsel appearing in IA No. 1850 submits that Applicant (SRS Private Investments Powai Ltd.) has interest in Company of Supreme Housing & Hospitality Pvt. Ltd., the Financial Creditor.

6. Learned Counsel for the SRS Private Investments Powai Ltd. has also referred to paragraph 82 in the judgment of Hon’ble **Supreme Court in (2019)**

4 SCC 17 in the matter of Swiss Ribbons Pvt. Ltd. & Anr. Vs. Union of India & Ors.

7. After having heard the Learned Counsel for the Appellant and Learned Counsel for the Canara Bank, we are of the view that in view of the acceptance of OTS, no purpose shall be served in proceeding the CIRP any further. We, thus, close the CIRP proceedings and set aside the order impugned dated 23.11.2022. Liberty is given to the Canara Bank for revival, if any, such circumstances arise.

8. In view of the fact that CoC has not been constituted in pursuance of the Interim Order passed by this Tribunal, we are of the view that the Applicants (SRS Private Investments Powai Ltd. and ICICI Bank) are at liberty to take appropriate steps in accordance with law. IRP fees and expenses shall be paid within two weeks by the Appellant.

With these observations the Appeal is disposed of accordingly.

**[Justice Ashok Bhushan]
Chairperson**

**[Mr. Barun Mitra]
Member (Technical)**

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