



**NATIONAL COMPANY LAW TRIBUNAL**

**COURT ROOM NO. 1,**

**MUMBAI BENCH**

**Item No. 48**

**C.P. (IB)/703(MB)2024**

CORAM:

**SH. PRABHAT KUMAR**

**JUSTICE V.G. BISHT (Retd.)**

**HON'BLE MEMBER (TECHNICAL)**

**HON'BLE MEMBER (JUDICIAL)**

ORDER SHEET OF THE HEARING ON **16.10.2024**

NAME OF THE PARTIES: **OMKARA ASSETS RECONSTRUCTION PRIVATE LIMITED V/s MRS. TERRY ELIAS D'SOUZA**

Section 95(1) of the Insolvency and Bankruptcy Code, 2016

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**ORDER**

1. Counsel Charles D'Souza a/w Adv. Supriya Majumdar, Adv. Ibrahim Shaikh i/b Vaish Associates for the Applicant present.
2. Heard the counsel appearing for the Financial Creditor/Petitioner.
3. The above company petition is filed by **OMKARA ASSETS RECONSTRUCTION PRIVATE LIMITED** for initiation of Insolvency Resolution Process against Respondent, **MRS. TERRY ELIAS D'SOUZA** who is personal guarantor of the corporate debtor.
4. Learned counsel appearing for the Financial Creditor invited the attention of this bench to the demand notice dated 04.07.2016 invoking the guarantee against the respondent and also invited the attention of this bench to the proof of the demand notice. The Financial Creditor also invited the attention to the deed of guarantee being the guarantee for all facilities executed by the personal guarantor in favor of the applicant bank.



5. In view of the default of the Corporate Debtor, the Petitioner invoked Personal Guarantee of the Personal Guarantor and issued an Invocation Letter, to pay outstanding dues in respect of the Loan.
6. Having considered the submissions and upon perusing the above documents, this Bench is of the considered view that the present Company Petition is complete in all aspects as required by law and thus hereby appoints **Mr. Prashant Jain**, having address at A 501, Shanti Heights, Sector 11, Koperkhairne, Navi Mumbai - 400709., having E-mail address [ipprashantjain@gmail.com](mailto:ipprashantjain@gmail.com) having Contact Nos. 9322743902 to act as the Resolution Professional. As the name of the Insolvency Professional has been suggested by the Petitioner herein.
7. This Bench also directs for an advance payment to the tune of Rs. 2,00,000/- to be paid by the Financial Creditor to the Resolution Professional immediately to initiate the process which shall be adjusted towards fee and expenses payable to the Resolution Professional.
8. Resolution Professional is directed to examine the Company Petition and file the report within 10 days from the date of receipt of this order.
9. Registry is directed to communicate this order immediately to the Resolution Professional, **Mr. Prashant Jain**, having address at A 501, Shanti Heights, Sector 11, Koperkhairne, Navi Mumbai - 400709., having E-mail address [ipprashantjain@gmail.com](mailto:ipprashantjain@gmail.com) having Contact Nos. 9322743902.
10. Ld. Counsel for the Applicant confirms their service of the petition to the IBBI.
11. The Counsel for the Petitioner takes us through Section 13(2) notice dated 04.07.2016, wherein said 13(2) notice is not stated to be issued against the Respondent Guarantor calling upon them to pay. Instead the said notice had only been informed the Respondent Guarantor that they should compile the borrower to pay the total overdues. Accordingly, contents that guarantee cannot said to have been invoked in consequence of this notice.



12. List this matter on **25.11.2024** for submission of the report.

**-Sd-**  
**PRABHAT KUMAR**  
**MEMBER (TECHNICAL)**

Rehan Shaikh

**-Sd-**  
**JUSTICE V.G. BISHT**  
**MEMBER (JUDICIAL)**