

Title Suit (Commercial) – 11/2024
[CNR No : WBBD17-000032-2023]
J.O Code : WB01311

Order No. – 20

Dated : 13/01/2025

This day is fixed for hearing of IA no. 09 of 2023 & IA no. 14 of 2024.

Both the parties file hazira.

Ld. Advocate for both the parties are also present.

IA no. 14 of 2024 which has been filed by the plaintiff is taken up for hearing.

It is submitted by the Ld. Advocate for the plaintiff that during the pendency of the suit, defendant no. 5 has approached the National Company Law Tribunal (NCLT) U/sec. 95 of the Insolvency and Bankruptcy Code, 2016.

The Ld. Advocate also submitted that by order dated 19/07/2024 Mr. Rajender Kumar, has been appointed as a Resolution Professional in respect of the claims between the plaintiff and defendant no. 5.

The Ld. Advocate also submitted that once an application is filed U/sec 94 or 95 of Insolvency and Bankruptcy Code, 2016 and interim moratorium commences on the date of application in respect of the debt and during the said interim moratorium period any legal action or proceedings pending in respect of any of the debt is deemed to have been stayed.

The Ld. Advocate therefore submitted that since an application U/sec. 95 of the Insolvency and Bankruptcy Code, 2016 has been filed by defendant no. 5, so in terms of sec 96 of the said code the present suit should be kept in abeyance till the decision of the NCLT.

The Ld. Advocate also submitted that the proceedings between the parties pending before the Kolkata Debts Recovery Tribunal -II has also been stayed considering the pendency of the proceedings before the NCLT.

The Ld. Advocate for defendant no. 5 left the matter to the discretion of the Court.

Heard the Ld. Advocates. Considered their submissions.

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sec.96 (1) (d) of Insolvency and Bankruptcy Code makes it clear that during an interim moratorium any legal actions or proceedings pending in respect of any debt shall be deemed to have been stayed and the creditors of the debtors shall not initiate any legal actions or proceedings in respect of such debt.

Therefore considering the fact that a Resolution Professional has already been appointed by the NCLT, the proceedings of the instant suit shall be kept in abeyance till the disposal of the proceedings before NCLT, Kolkata.

The parties are at liberty to mention the matter after the disposal of the matter before NCLT, Kolkata.

All proceedings of the suit is accordingly adjourned sine die.

D/C by me

Judge, Commercial Court
At Asansol

Judge, Commercial Court
At Asansol