

IN THE NATIONAL COMPANY LAW TRIBUNAL,
COURT II, MUMBAI BENCH
INTERLOCUTORY APPLICATION NO. 1062 OF 2024

IN

COMPANY PETITION (IB) NO. 1108/MB/2019

*Application u/s 60(5) of the Insolvency and
Bankruptcy Code, 2016 read with Rule 34 of the
N.C.L.T Rules, 2016.*

In the matter of:

Mr. Rajan Garg,

Resolution Professional of M/s.

Truly Creative Developers Pvt. Ltd. ...**Applicant**

v/s

The Chief Executive Officer,

Slum Rehabilitation Authority,

Administrative Building, Anant Kanekar Marg,

Bandra (East), Mumbai-400051. **Respondent**

In the matter of

Amit Steels

...**Operational Creditor**

v/s.

Truly Creative Developers Private Limited

...**Corporate Debtor**

Order pronounced on 16.07.2024.

Coram:

Shri. Kuldip Kumar Kareer :

Member Judicial.

Shri. Anil Raj Chellan :

Member Technical.

Appearances (in Virtual mode):

For the Applicant : Adv. Ankur Khandelwal i/b Adv. Himanshu Handa and Anukul B. Sheth.

For the Respondent : Adv. Vaibhav Charalwar i/b Adv. Tulsi Shah.

ORDER

Per: Coram.

1. This is an application filed by the Resolution Professional of the Corporate Debtor (hereinafter referred to as "the RP") under Section 60(5) of the Insolvency and Bankruptcy Code, 2016 (hereinafter referred to as "the Code") read with Rule 34 of the N.C.L.T Rules, 2016 seeking directions to the Respondent to place on record the entire document including all annexures, enclosures to Exhibit 'B' of the Affidavit-in-Reply dated 08.12.2023 to the I.A. No. 3895 of 2023.

Case of the Applicant (in brief):

2. The Applicant had filed IA No.3895 of 2023 ("Application"), seeking certain reliefs and directions against the continuation of proceedings concerning the Corporate Debtor by the Slum Rehabilitation Authority in pursuance of the Notice dated 24.03.2023 issued under Section 14 of the Maharashtra Slum Areas (Improvement, Clearance and Redevelopment) Act, 1971 in view of the moratorium imposed by Section 14 of the Code.
3. The Respondent on 08th December, 2023 filed its reply ("Reply") to the said Application. In the Reply, the Respondent had annexed a document (which admittedly contained annexures) as Exhibit "B" ("Document") at page no.19 of the Reply. For reasons best known to the Respondent, the annexures of the

Document were not produced by the Respondent there along. During the hearing on 15 December 2023, the Applicant had requested the counsel for the Respondent to produce the annexures of the Document. It is the case of the Applicant that this Tribunal had orally directed the Respondent to produce the complete Document. After waiting for almost two weeks, the counsel for the Applicant addressed an email dated 29 December 2023 to the counsel of the Respondent requesting for the complete Document, including all the annexures thereto.

4. The Applicant states that in spite of the oral directions by this Tribunal to produce the complete Document and the reminder email dated 29 December 2023, the Respondent failed to provide the Document or produce it on record of this Tribunal. Instead, vide email dated 6 January 2024, the counsel of the Respondent suggested an inspection of the Document, along with the annexures. From the said email, it is not clear whether the Respondent would authorise the Applicant to make copies of the annexures to the Document, in addition to any such inspection is not only cumbersome but also impractical and time-consuming.
5. The Applicant submits that the annexures to the Document are relevant and material to the present proceedings since they relate to the issue raised in the Application, namely the reasons for the commencement of the acquisition proceeding initiated by the Respondent, which has been impugned in the Application.
6. Besides relying upon Section 19 of the Code, the Applicant submits that it is a settled principle of law that no document can be relied on partially, and the document should be read as a whole including all the annexures / enclosures, and any isolated portion of the document may not be taken into consideration.

Therefore, any document being relied upon by the Respondents ought to be relied upon in entirety or not at all.

7. In view of the above, the applicant humbly prays for an appropriate direction to the Respondent to produce the complete Document on the record of this Tribunal, which is critical for the proper adjudication of the Application and for gathering information for successfully completing the insolvency resolution process of the Corporate Debtor.

Reply of the Respondent: The Respondent has been served with the notice and entered appearance. However, no reply has been placed on record.

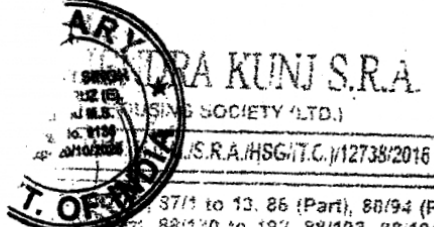
FINDINGS

8. We have heard the Counsel for the parties and have gone through their pleadings and documents.
9. This is an application filed by the Resolution Professional of the Corporate Debtor invoking the residuary jurisdiction of this Tribunal under Section 60(5)(c) of the Insolvency and Bankruptcy Code for recovery of his outstanding fees from the Respondent, who is a sole member of the CoC of the Corporate Debtor.
10. Counsel for the Applicant submits that the annexures to the Document are relevant and material to the present proceedings since they relate to the issue raised in the Application, namely the reasons for the commencement of the acquisition proceeding initiated by the Respondent, which has been impugned in the Application. Hence, it is imperative to grant the directions prayed for. On the other hand, Counsel for the Respondent submits that Section 19 of the Code

cannot be applied in the instant case and moreover, the Respondent had kept open for inspection the Exhibit 'B' to the Reply Affidavit in IA No. 3895/2023 with complete annexures, and therefore, as such, there is no need for issuing directions to furnish complete document with all its annexures.

11. We have taken note of the aforesaid submission and considered this application on its merits.
12. The Applicant had filed IA No.3895 of 2023 ("Application"), seeking certain reliefs and directions against continuation of proceedings concerning the Corporate Debtor by the Slum Rehabilitation Authority in pursuance of the Notice dated 24.03.2023 issued under Section 14 of the Maharashtra Slum Areas (Improvement, Clearance and Redevelopment) Act, 1971 in view of the moratorium imposed by Section 14 of the Code. The Respondent on 08th December, 2023 filed its reply ("Reply") to the said Application. In the Reply, the Respondent had annexed a document as Exhibit "B" ("Document") at page no.19 of the Reply. It is the case of the Applicant that the Respondent had merely annexed the Exhibit 'B' without the annexures stated therein.
13. We have perused the records. On perusal of the records, we find that Exhibit 'B' to the Affidavit in Reply (marked herein as Exhibit 'A' to the present application) is nothing but the Letter dated 10th August, 2022 was addressed by Rajendra Kunj SRA Co-operative Housing Society Limited to the Respondent i.e. the Chief Executive Officer of Slum Rehabilitation Authority, concerning the land acquisition proceedings u/s 14 of the Maharashtra Slum Areas (Improvement, Clearance and Redevelopment) Act, 1971. In the aforesaid letter, the following documents were annexed by the above-named co-operative housing society:

17



राजेंद्र कुंज एस.आर.ए.सहका
गृहनिर्माण संस्था (मर्यादित)

सौ.ड.एच.ए.एम./एस.आर.ए./एच.एस.पी./ए.सी./१२७३८/नव-२०

88/93 to 13, 86 (Part), 88/94 (Part), 88/95 (Part), 88/97 (Part), 88/98 (Part), 88/99 to 10
88/130 to 192, 88/193, 88/194 (Part), 88/195 (Part), 88/196 to 199 & 88/509 to 515
गांधीनगर, पाली, Borivali, Rajendra Nagar, Datta-Pada Road, Borivali (E), M.S.D., Mumbai - 400 06

Date: _____

सोबत जाडलेली कागदपत्रे

अ. क्र.	जाडलेली कागदपत्रे	पानांक
१	भूसंपादन करणे बाबत संस्थेच्या सर्वसाधारण सभेचा ठराव (ए.जी.आर.सी निर्णय)	EX-1
२	मिळकत पत्रिका (तीन महिन्यांचे आतील मूळ नक्कल प्रत)	EX-2
३	नगर भूमापन नकाशा (मूळ नक्कल प्रत)	EX-3
४	मिळकत पत्रिका शेती असल्यास क.जा.प व ७/१२ च्या प्रती (मूळ नक्कल प्रत)	—
५	गलिच्छ वस्ती/ झोपडपट्टी पुनर्वसन क्षेत्र घोषित केल्याबाबतची अधिसूचना/ राजपत्र	EX-4
६	संपादित करावयाच्या क्षेत्राच्या मुख्य प्रवर्तक व वास्तुविशारद/ सर्वेअर यांनी स्वाक्षरी केलेला झोपडीस्थित नकाशा (चतुःसिमासहित)	EX-5
७	झोपडीधारकांची यादी/ परिशिष्ट -२	EX-6-A, B, C
८	संपादित करावयाच्या क्षेत्राच्या जमिन मालक/ पट्टेदार / कब्जेदार/ ईमला मालक व इतर हितसंबंधीतांची नावे व सध्याचे पत्ते	EX-7
९	गृहनिर्माण संस्थेच्या पदाधिकाऱ्याची नावे, पत्ते व फोन	EX-8

CA RAJAN GARG
INSOLVENCY PROFESSIONAL
IP Registration No. - IBB/IFA-091/IP-P02397/
2021-2022/13924

18

18

25

RAJENDRA KUNJ S.R.A.
(A COMPANY INCORPORATED UNDER THE COMPANIES ACT, 1956)
(A COMPANY INCORPORATED UNDER THE COMPANIES ACT, 1956)
M.S.R.A./HSG/T.C./12738/2016

राजेंद्र कुंज एस.आर.ए. सहक
गृहनिर्माण संस्था (मर्चादित)
नों.क्र.एच/पु.प्र./एच.आर.ए./एच.एच.बी./टी.सी./१२७३८/मन-१०

87/1 to 13, 88 (Part), 88/94 (Part), 88/95 (Part), 88/97 (Part), 88/98 (Part), 88/99 to 11, 88/100 to 192, 88/193, 88/194 (Part), 88/195 (Part), 88/196 to 199 & 88/509 to 515
Bhagane, Tal.: Borivali, Rajendra Nagar, Datta-Pada Road, Borivali (E), M.S.D., Mumbai - 400 01

Date: _____

क्रमांक/ प्राधिकृत अधिकारी		
90	विधानसभा मतदार संघाची संबंधित विभागाची सन १९९५ ची मतदार नोंदणी अधिकाऱ्याने साक्षात्कीत केलेली मतदार यादी ('मुळ प्रत व एक साक्षात्कृत प्रती)	EX-9A 69J
99	अर्जदार याचे ओळखपत्र (पॅनकार्ड / वाहन चालक परवाना)	EX 10
92	संस्थेची योजना प्राधिकरणात दाखल आहे काय ?	होय
93	विकास आराखड्याची प्रत जोडलेली आहे काय ?	होय EX-11.
98	संपादित करावयाच्या मिळकतीबाबत कोणत्याही न्यायालयात दावा प्रलंबित नसल्याबाबतचे संस्थेचे प्राधिकृत व्यक्तीचे रु.१००/- च्या स्टॅम्प पेपर वर शपथपत्र	EX-12

Sanjay B. Lull
विकासक

SUNIL SHINDE
वास्तुविशारद

SUNIL SHINDE
AUTHORISED OFFICER
प्राधिकृत अधिकारी
सहकार विभाग / झो.पु.प्र.

- १) अर्ज परिपूर्ण असून स्विकृत करणेत येत आहे
- २) अर्ज अपुर्ण असून समक्ष परत करणेत येत आहे

दिनांक :-

SUNIL SHINDE
AUTHORISED OFFICER

प्राधिकृत अधिकारी / झो.पु.प्र.

CA RAJENDRA KUNJ
INSOLVENCY PROFESSIONAL
IP Registration No. - 1651/IFA-00/1IP-P023671
2021-2022/13624

14. It is the case of the Applicant herein that though the Respondent while filing its affidavit in reply in IA No. 3895 of 2023, had relied upon the aforesaid letter at Exhibit 'B', however, the Respondent had failed to furnish a complete copy of the aforesaid letter with all its Exhibits No.1 to 12. The Respondent herein has not contested the fact that it has not furnished a complete copy of the Letter dated 10th August, 2022 i.e. Exhibit 'B' to the Affidavit in Reply in IA No. 3895 of 2023, along with all its annexures and enclosures. Thus, it is taken to be admitted that only an extract of the Letter dated 10th August, 2022 was provided to the Applicant by the Respondent without its annexures and enclosures from Exhibit Nos. 1 to 12. The annexures to the Letter referred to in Exhibit 'B' to the affidavit-in-reply in IA No. 3895 of 2023 may be relevant and material to the Applicant for prosecuting its case in the above-mentioned IA.

15. In our considered view, once the Respondent has relied upon a particular document in its reply affidavit while contesting the case of the Applicant, the Applicant is entitled to a complete copy of such document so as to contest or demolish the case of the Respondent. Considering the facts and circumstances of this case and keeping the principles of natural justice in mind, we are of the opinion that the Applicant should be given complete copy of the document referred to in Exhibit 'B' to the affidavit-in-reply in IA No. 3895 of 2023. Hence, we **allow** the application in the following terms:

ORDER

- i. The non-applicant/ Respondent - Chief Executive Officer, Slum Rehabilitation Authority (SRA) is hereby directed to place on record the entire document including all Annexures / Enclosures to "Exhibit B" of the Affidavit in Reply dated 8 December 2023 to the I.A. No. 3895 of

IN THE NATIONAL COMPANY LAW TRIBUNAL, COURT-II,
MUMBAI BENCH

I.A. NO. 1062 OF 2024
IN
CP(IB) NO. 1108/MB/C-II/2019

2023 and furnish a copy of the same to the Applicant within two weeks from the date of this order;

ii. Accordingly, I.A. No. 1062 of 2024 stands disposed of.

Sd/-

ANIL RAJ CHELLAN
(MEMBER TECHNICAL)

Sd/-

KULDIP KUMAR KAREER
(MEMBER JUDICIAL)