

NATIONAL COMPANY LAW TRIBUNAL

COURT ROOM NO. 1,

MUMBAI BENCH

Item No. 25

IA 626/2024 in C.P. (IB)/1092(MB)2023

CORAM:

SH. PRABHAT KUMAR JUSTICE VIRENDRASINGH BISHT (Retd.)
HON'BLE MEMBER (TECHNICAL) HON'BLE MEMBER (JUDICIAL)

ORDER SHEET OF THE HEARING ON **24.06.2024**

NAME OF THE PARTIES: **STATE BANK OF INDIA V/s PATEL**
ENGINEERING LIMITED

Section 60(5) & 7 of the Insolvency and Bankruptcy Code, 2016 and
Rule 11

ORDER

IA 626/2024 in C.P. (IB)/1092(MB)2023

- 1) Mr. Shantam Mandhyan, Ld. Counsel for the Financial Creditor and Mr. Rohit Gupta, Ld. Counsel for the Corporate Debtor are present.
- 2) Counsel for the Corporate Debtor draws our attention towards order dt. 15.12.2023, passed by the District Court, whereby it was recorded that the Financial Creditor will not precipitate against the Complainant herein till the disposed of IA 2 of 2023j, considered by this Court.

3) However, Ld. Counsel for the Applicant has placed on record order dt. 29.01.2024 passed by the Hon'ble High Court whereby the following order was passed:

The petitioner is the Guarantor and the land owner of a loan that was secured by M/s GM Infinite Dwelling (India) Pvt. Ltd. M/s GM Infinite Dwelling (India) Pvt. Ltd. had approached this Court in W.P. No.5/2023, which comes to be disposed on 01.09.2023 directing the petitioner therein to approach the Debt Recovery Tribunal. The said judgment was tossed before the Division Bench in W.A. No.1214/2023. The Division Bench again relegates the petitioner/appellant therein to the DRT but directs no precipitative action should be taken for four weeks by the Bank against M/s GM Infinite Dwelling (India) Pvt. Ltd. Learned Senior Counsel Sri. Nandakumar representing the petitioner would seek four weeks protection as is granted to the borrower, to the guarantor as well. In the light of the Division Bench direction, the respondent – Bank shall not precipitate against the petitioner even for the next four weeks. List this matter on 05.01.2024 & amp; quot. The Interim order was granted on the sole premise that the principal borrower, in terms of the direction of the Division Bench would approach the Debt Recovery Tribunal, within four weeks from the date on which the Writ Appeal comes to be disposed. It is an admitted fact that the principal

borrower even as on today has not approached the DRT despite passage of four months. Therefore, the interim order on the premise that it was granted would not enure to the benefit of the petitioner any more. Therefore, the interim order stands vacated.

- 4) Accordingly, Counsel for the Corporate Debtor is directed to seek further clarification in this relation and apprise this Bench whether there still exists any enforceable undertaking of the Petitioner or stay of any court in force.
- 5) Stand over to 11.07.2024, for further consideration and hearing.

Sd/-

**PRABHAT KUMAR
MEMBER (TECHNICAL)**

Vedant Kedare

Sd/-

**JUSTICE VIRENDRASINGH BISHT
MEMBER (JUDICIAL)**