

DIVISION BENCH

S-4

**NATIONAL COMPANY LAW TRIBUNAL
KOLKATA BENCH
KOLKATA**

IA(I.B.C)/891(KB)2021

In

C.P. (IB)/440(KB)2018

**Present: 1. Hon'ble Member(J), Shri Rajasekhar V.K.
2. Hon'ble Member(T), Shri Harish Chander Suri**

ATTENDANCE-CUM-ORDER SHEET OF THE HEARING ON 07th October, 2021, 10:30 A.M

Name of the Company	HUVEPHARMA SEA [PUNE] PRIVATE LIMITED Vs. AMRIT FEEDS LIMITED		
Under Section	Sec 60(5)		
Sl. No.	Name & Designation of Authorized Representative (IN CAPITAL LETTERS)	Appearing on behalf of	Signature with date

Counsel appeared through video conference

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|--------------------------------------|----------------------|
| 1. Mr. Jishnu Saha, Sr. Adv. |] For the petitioner |
| 2. Mr. Shiv Ratan Kakrania, Adv. |] |
| 3. Mr. Shaunak Mitra, Adv. |] |
| 4. Mr. Tanuj Kakrania, Adv. |] |
| 1. Mr. Krishnaraj Thaker, Adv. |] For the Liquidator |
| 2. Ms. Sreenita Ghosh Dastidar, Adv. |] |
| 1. Mr. Soorjya Ganguli, Adv. |] For HDFC Bank |
| 2. Ms. Kiran Sharma, Adv. |] |

ORDER

1. Ld. Sr. Counsel for the parties present.
2. **I.A. No. 891/KB/2021-** is an application filed by the Assam Industrial Infrastructure Development Corporation against the Liquidator inter alia, for a declaration that the Corporate Debtor has no subsisting Leasehold interest or right in the land to the extent of 5570 sq. meters more fully and particularly described at Annexure C 2 of the application and for a declaration that the land does not form part of the liquidation estate of the Corporate Debtor. An order of injunction restraining the

liquidator from taking any further steps on the basis of the e-auction sale notice dated 15/09/2021 is also pressed at the time of moving the present application.

3. The Corporate Debtor was in possession and enjoyment of leasehold rights in respect of a total extent of 10097 sq. meter by way of four lease agreement dated 29/01/2009, 29/01/2010, 17/01/2012 and 05/06/2013. Out of this, the Corporate Debtor has over these years surrendered partial of land to the extent of 4527 sq.meter retaining with itself 5570 sq. meters.
4. Due to alleged violations, the applicant issued show cause notice dated 06/08-090-2017 calling upon the Corporate Debtor to show cause why action should be not taken in terms of the lease deed for violation thereof. Thereafter, exchange of correspondences took place between the Corporate Debtor and the applicant and at last count vide a letter dated 29/09/2020. The allotment of land admeasuring 5570 sq.meters was cancelled in terms of section **16(d)** of the **Assam Industrial Infrastructure Development Corporation Act, 1990**. This was after the order of admission and commencement of CIRP on 22/10/2019. **Thereafter**, the applicant issued a notice to the Estate Officer, District Industries and Commerce Centre, Kamrup asking for resumption of the said piece of land. This notice is again during the period of CIRP.
5. Vide an order dated 19/02/2021, the CIRP came to an end with the order of liquidation against the Corporate Debtor. On 29/06/2021, the Liquidator informed the applicant that the Corporate Debtor was under liquidation pursuant to the order dated 19/02/2021 and also that the Liquidator intended to sale the leasehold interest of the Corporate Debtor in the land. On 28/07/2021, the applicant wrote back to the Liquidator drawing attention to the cancellation of the lease vide letter dated 29/09/2020 and refusing permission to deal with the property in exercise of the powers under Clause 2(j) of the Lease Deed. On 20/09/2021, the Liquidator vide the sale notice dated 15/09/2021 informing the applicant about the intended sale of the leasehold interest in the said partial of land. The present application is in this context and seeks an injunction of the same. Mr. Krishnaraj Thaker, Ld. Counsel appearing for the Liquidator vigorously opposed grant of prayer (d) of the application on the ground that the cancellation of leasehold right occurred during CIRP and therefore was prima facie illegal.
6. In order to balance the interest of the various stakeholders and considering that the applicant has approached this Adjudicating Authority at practically the 11th hour when the auction sale is supposedly scheduled for tomorrow i.e. 08/10/2021,we

permit the auction to go ahead but restrain the Liquidator from confirming the same without leave of this Adjudicating Authority.

7. In respect of the security interest that was created in favour of the HDFC Bank, it is submitted by the Ld. Counsel appearing for HDFC Bank that the said secured creditor has relinquished its security interest in terms of Regulation 21 A (2)(a) of the Liquidation Process Regulations. This is recorded.

8. **List this matter on 8th November, 2021 by which date the Liquidator shall file his reply affidavit in the matter**

(Harish Chander Suri)

Member(Technical)

(Rajasekhar V.K.)

Member(Judicial)

PJ