

NATIONAL COMPANY LAW TRIBUNAL, MUMBAI BENCH

COURT III

119. I.A. 4607/2023

I.A. 1792/2022

I.A. 1327/2022

I.A. 1132/2022

In

C.P.(IB)-2312(MB)/2019

CORAM: MS. LAKSHMI GURUNG, MEMBER (J)

SH. CHARANJEET SINGH GULATI, MEMBER (T)

ORDER SHEET OF THE HEARING OF MUMBAI BENCH OF THE NATIONAL COMPANY LAW TRIBUNAL ON **04.04.2024**

NAME OF THE PARTIES: IL & FS Financial Services Ltd

V/s.

G.C. Property Private Ltd.

Appearances:

For Liquidator : Adv. Shashank Agarwal

For Respondent : Adv. Suyash Shankar for R-2 in IA 1327/2022, R-1,3,4 in IA 1792/2022, R-1 & 2 in IA 1132/2022, Adv. Nausher Kohli i/b. Sukanya for R-1 in IA 1327/2022 and R-2 in IA 1792/2022.

SECTION 7 OF IBC, 2016

ORDER

Hearing Through: Virtually and Physical (Hybrid) Mode

I.A. 4607/2023

This application has been filed by the liquidator for taking on record the 5th Progress Report for the period 1st July 2023 to 30th September 2023.

Ld. counsel for the liquidator submits that no progress has been made in this quarter due to attachment by the ED under PMLA.

Heard the counsel and accordingly, the report is taken on record. As no further orders are required, I.A. is **allowed** and stands **disposed of**.

I.A. 1792/2022

Reply of R-1, R-3, R-4 and R-5 are on record.

Right to file reply of R-2 has been closed. R-6 had been set ex-parte vide order dated 17.10.2022. List on **15.05.2024** for final hearing.

I.A. 1132/2022

This application has been filed by the IRP seeking cooperation from the suspended directors Mr. Sandeep Kesare and Smt. Anupama Agarwal for following information;

Sr. No.	Information required	Status
1	Assets and liabilities details as on Insolvency Commencement Data (ICD)	Not Provided
2	Latest Audited Financial statements till 31.03.2021	Not Provided
3	Unaudited financial statements for the period 01.04.2021 till 11.03.2022	Not Provided
4	Debts due from related parties	Not Provided
5	Details of guarantees that have been given in relations to the debts of the corporate debtor by other persons, specifying which of the guarantors is a related party	Not Provided
6	List of shareholders along with address as on ICD	Not Provided
7	Details of all material litigation and an ongoing investigation or proceeding initiated by Government and statutory authorities	Not Provided
8	Details of Employees/workers as on date	Not Provided
9	Details of Directors along with email_ids	Received from MCA website
10	Details of the residential property owned by CD and the occupants of the property	Not Provided

11	Bank up of accounting data and records	Not Provided
12	ALL Bank account details, Cheque book with bank statements for last 3 years	Bank Statement provided but bank a/c details cheque books not provided
13	Income Tax Returns along with IT Login ID and Password	Not Provided
14	TAN Returns, login ID and password	Not Provided
15	GST Returns, login ID and password	Not Provided
16	Other important information, available at your end, related to resolution of the corporate debtor.	Not Provided
17	Hand over of property located at flat No.6, Gold Croft Apartment CHS, 39, Balubhai, Desai Road, Mumbai- 400026	Not handed over

We have perused reply filed by the Respondent are as follows;

“I had shared the following documents to the Applicant via email. The list of documents is as follows:

- a) Annual Reports for the year 2007-08 to 2014-15*
- b) Bank Account Statement from the year 1-4-2015 to 7-8-2017 and 1-8-2017 to 17-3-2022.*
- c) Deed of transfer of the said Flat dated 17th Sept 2007*
- d) Certificate of Incorporation along with List of Directors of G. C. Property Private Limited*

I say that the Hon'ble Courts in India have time and again laid emphasis on the fact that persons are not permitted to take forcible possession. In Rame Gowda v. M. Varadappa Naidu, a three- Judge Bench of this Court, while discussing the Indian law on the subject, observed as under: (SCC p. 775, para 8)

"8. It is thus clear that so far as the Indian law is concerned, the person in peaceful possession is entitled to retain his possession and in order to protect such possession he may even use reasonable force to keep out a trespasser."

The Hon'ble Delhi High Court has held that "The law respects possessory rights over immovable property, even in the absence of valid title". Thus, I say and submit that the present occupiers in the possession of the said property, the law entitles them to retain their possession and respects their possessory rights. With the consent of the present occupiers, I had offered to pay the rent via email dated 10th July, 2022 for the property more particularly, Flat No.6, Gold Craft Apartment CHS, 39, Bhulabhai Desai Road, Mumbai (hereinafter referred to as the said property). However, the said offer was rejected for the best known reasons to the Applicant and more over no counter offer was being made by the Applicant.

By an order dated 21st September, 2022 the Directorate of Enforcement, Department of Revenue, Ministry of Finance has attached the said immovable properties and proceedings being OA 08/2022 initiated before the Adjudicating Authority under PMLA for confirmation of the said attachment order.

I deny that I have not cooperated with the Applicant in handing over the asset of the Corporate Debtor, more particularly Flat No.6, Gold Craft Apartment CHS as alleged or otherwise at all".

At the time of hearing of the instant application, Ld. counsel for Respondent submitted that Respondents are willing to cooperate with the RP and shall hand over all the information/document/assets of the corporate debtor to the RP.

We, therefore, direct the Respondents to provide the information as asked by the RP in the table given above. List on **15.05.2024** for compliance. List other pending applications on **15.05.2024**.

Sd/-
CHARANJEET SINGH GULATI
Member (Technical)
---Rajeev---

Sd/-
LAKSHMI GURUNG
Member (Judicial)