(2023) 02 NCLT CK 0053

National Company Law Tribunal, Chandigarh Bench

Case No: IA Nos.708/2022 & 454/2023 In CP (IB) No.128/Chd/Hry.2017

Bank of India		APPELLANT
	Vs	
Osil Exports Ltd		RESPONDENT

Date of Decision: Feb. 20, 2023

Acts Referred:
Insolvency and Bankruptcy Board of India (Liquidation process) Regulations, 2016 â€” Regulation 38

Citation: (2023) 02 NCLT CK 0053

Hon'ble Judges: Harnam Singh Thakur, Member (J); Subrata Kumar Dash, Member (T)

Bench: Division Bench

Advocate: Balwinder Singh Kalsi, Harsh Garg, Pulkit Goyal, APS Madaan

Final Decision: Disposed Of

Judgement

IA No.708/2022

The compliance affidavit has been filed vide diary No.01131/4 dated 12.10.2022 and is taken on record. The short reply on the behalf of respondent

No.2 and No.3 are filed vide diary No. 01131/5 dated 09.11.2022 and is also taken on record.

The present application has been filed by Liquidator under Regulation 38 of IBBI (Liquidation process, 2016) seeking permission to distribute the

assets i.e. the building.

It is stated as no EOI/bid has been received the liquidator has decided to distribute the assets under Regulation 38 of IBBI (Liquidation process)

Regulation, 2016. The learned counsel for the dissenting bank stated that the impugned building cannot be sold without land as the building is

constructed on land owned by Suspended Directors/Promoter Mr. Krishan Kumar Gupta which was given on lease to the corporate debtor for a

period of 99 years. It is stated that thus, the building canÃ¢â‚¬â„¢t be sold with freehold rights over the land.

The respondent No.2 i.e State Bank of India has filed reply stating that there is a practical difficulty in distribution of assets which is a building

structure and it cannot be distributed in portion to various stakeholders but rather can be sold as a whole. The code does not provide any procedure to

exercise their right over the distributed assets.

The Resolution Professional is directed to conduct a meeting of Stakeholder Consultation Committee within two weeks on the agenda for the

distribution of the land/building to the bankers of the Corporate Debtor. Financial Creditor-the respondent Banks will place all their issues before the

SCC for its consideration. The liquidator is directed to take appropriate steps as per advice of the SSC and in accordance of law. Thus IA

No.708/2022 is disposed of accordingly as per the aforesaid instructions.

IA No.454/2023

IA No.454/2023 is moved in IA No.14/2021 which is fixed for 14.03.2023. The present application is filed for impleading the LRs of deceased Krishan

Kumar Gupta. According to applicant there are only three LRs of deceased namely Smt. Kanta Gupta widow of Sh. Krishan Kumar Gupta and two

sons namely Mr. Amit Gupta and Mr. Sumit Gupta. The application is supported by an affidavit also. Death certificate of deceased is also annexed as

Annexure A1. Keeping in view the facts, the present application is allowed and LRs of Mr. Krishan Kumar Gupta be impleaded in IA No.14 of 2021.

Registry is directed to take out the amended memo of parties from IA No.454/2023 and place the same in IA No.14/2021 before the next date of

hearing in IA No.14/2021.