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Resolution Professional’s Statutory Mandate Trumps Arbitral Award Execution: The NCLT Chandigarh Perspective on Asset Control During CIRP

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The intersection of arbitration law and insolvency legislation has consistently presented complex jurisdictional and substantive challenges for Indian courts and tribunals. The National Company Law Tribunal, Chandigarh Bench, recently delivered a significant ruling in Parvinder Singh (Resolution Professional) v. Neel-Rattan Enterprises Private Limited and Others, IA(IBC)/713(CH)/2023 in CP(IB) No. 62/Chd/Pb/2019, decided on 21 April 2026, by a Bench comprising Shri K. Biswal (Judicial Member) and Shri Kaushalendra Kumar Singh (Technical Member). This judgment addresses the critical question of whether an arbitral award predating the commencement of Corporate Insolvency Resolution Process can be executed during the moratorium period, and more fundamentally, whether the Resolution Professional's statutory duty to secure corporate assets yields to prior arbitration-based possessory rights. The case involved Aabha Industries Limited as the Corporate Debtor, with Parvinder Singh serving as the Resolution Professional, and Neel-Rattan Enterprises Private Limited along with its directors and assignees as the primary respondents opposing the RP's claim over the Corporate Debtor's factory premises at Village Raiyan, Ludhiana.

The factual matrix leading to the application under Section 60(5) of the Insolvency and Bankruptcy Code, 2016, reveals a typical scenario of asset discovery during insolvency proceedings. While collating claims from financial creditors, the Resolution Professional discovered that the Corporate Debtor had created a first pari passu charge by way of equitable mortgage over five immovable properties in favour of Punjab National Bank (erstwhile Oriental Bank of Commerce) pursuant to a sanction letter dated 24 September 2014. One such property, comprising factory land and building constituting Unit-II of the Corporate Debtor, was found to be in the possession of Respondents 1 through 3. The suspended director, Respondent No. 4, initially attributed this possession to an alleged civil court order obtained by the respondents due to the Corporate Debtor's failure to repay advances for raw material purchase, though no documentary substantiation was forthcoming. The Resolution Professional, acting in discharge of his statutory obligations under Sections 18 and 25(2)(a) and (b) of the Code, issued multiple demands for possession through communications dated 5 January 2023, 27 January 2023, and 1 February 2023, simultaneously apprising the respondents of the CIRP commencement on 23 December 2022 and invoking the overriding effect of Section 238 of the Code.

The respondents' defence rested substantially upon an arbitral award dated 26 June 2020, which significantly predated the CIRP initiation. According to their submissions, a Memorandum of Understanding executed on 9 December 2017 between Respondent No. 2 and the Corporate Debtor for supply of eighty metric tons of acrylic and blended yarn had spawned arbitration proceedings upon the Corporate Debtor's contractual default. The resultant award granted Respondent No. 2 and its assignee conditional rights to use the entire plant and machinery along with manufacturing facilities for a maximum period of forty-eight months, extendable by thirty months, with a directive to hand over charge within six months from the award date. Respondent No. 1 claimed possession as an assignee under this award, while Respondents 2 and 3 asserted their position as directors overseeing implementation rather than asset disposal. They contended that the award had attained finality absent any challenge, that Punjab National Bank had been informed during an April 2021 stock audit without objection, and that their rights had crystallised well before CIRP commencement, renderingthe moratorium inapplicable to their possessory claims.

The rival contentions presented sharply divergent legal positions before the Tribunal. The Resolution Professional maintained that his application sought merely to discharge his mandatory statutory duty of securing corporate assets, that the NCLT possessed exclusive jurisdiction under Section 60(5) over all CIRP-connected matters, and that the respondents' continued possession violated the moratorium under Section 14 while jeopardising time-bound resolution. He further invoked Order 34 Rule 12 of the Code of Civil Procedure, 1908, to emphasise that mortgaged property cannot be transferred without the prior mortgagee's consent, and cited the Supreme Court's judgment in Indus Biotech Private Limited v. Kotak India Venture (Offshore) Fund to highlight that arbitration proceedings become non-maintainable post-admission of insolvency petitions. The respondents countered that the application constituted an impermissible indirect challenge to the arbitral award, which under Section 34 of the Arbitration and Conciliation Act, 1996, could only be entertained by the principal civil court or High Court exercising original jurisdiction as defined in Section 2(1)(e) of that Act. They relied upon Yashpal Chopra & Co. v. Union of India, SLP(C) No. 78324 of 2022, to fortify this jurisdictional objection, asserting that the NCLT lacked competence to adjudicate upon arbitral award validity or enforcement. Additionally, they argued that the rent claim sought by the RP lacked pleading support, while Respondents 4 through 6 sought deletion from the array of parties citing their resignation from directorship prior to CIRP commencement and absence of specific relief claims against them.

The Tribunal framed two precise issues for determination: first, the maintainability of the application under Section 25(2)(a) and Section 60(5) of the Code; and second, whether the execution of the arbitral award stood prohibited by the moratorium under Section 14. On the first issue, the Tribunal emphatically upheld the application as maintainable, interpreting Section 60(5) as

conferring comprehensive and residuary jurisdiction upon the NCLT to adjudicate all matters bearing direct nexus to the insolvency resolution process, thereby preventing multiplicity of proceedings and ensuring timely resolution. The Tribunal clarified that it was not adjudicating the arbitral award's intrinsic validity per se, which would indeed fall within the exclusive domain of civil courts under Section 34 of the Arbitration Act, but rather examining the award's effect and enforceability within the specific statutory framework of the Insolvency and Bankruptcy Code. The dispute over possession directly impactedthe Corporate Debtor's asset pool and the effective conduct of CIRP, squarely bringing it within Section 60(5)'s ambit. The Tribunal invoked the maxim expressum facit cessare tacitum to reinforce that the mandatory duty imposed upon the Resolution Professional by Section 25(2)(a) to take immediate custody and control of all corporate assets admits of no implied exceptions or qualifications.

Regarding the second issue, the Tribunal delivered an unequivocal finding that the execution of the arbitral award was indeed hit by the moratorium. Section 14(1)(a) expressly prohibits the institution or continuation of proceedings, including execution of any judgment, decree or order of any arbitral authority, against the Corporate Debtor during the moratorium period. The Tribunal observed that the fundamental purpose underlying this provision is the preservation and maximisation of corporate assets, and that any enforcement of rights flowing from the arbitral award in a manner affecting the asset pool or interfering with CIRP is statutorily barred. The chronological priority of the award, having been rendered on 26 June 2020 against CIRP commencement on 23 December 2022, did not immunise its continued execution from the moratorium's operation. The Tribunal further noted that during proceedings on 21 January 2026, the respondents failed to demonstrate compliance with essential award conditions, particularly the obligation to furnish periodic production details to the Resolution Professional post-CIRP commencement, thereby undermining their own claim to be mere implementers of the award's terms.

The final disposition of the Tribunal allowed the application and directed Respondents 1 through 3 to forthwith hand over peaceful possession, custody and control of the factory premises along with all assets, records and documents to the Resolution Professional within two weeks from the order date. Significantly, the Tribunal provided an enforcement mechanism by authorising the Resolution Professional to seek police assistance from the Commissioner of Police should the respondents fail to comply, with the Commissioner directed to extend such assistance for vacating the premises. Given the absence of specific relief claims and their disconnection from corporate affairs, Respondents 4 through 6 were effectively excluded from the operative directions.

This judgment reinforces the hierarchical supremacy of insolvency legislation over competing private dispute resolution mechanisms when corporate assets are implicated. It establishes that the Resolution Professional's statutory mandate to secure and preserve the Corporate Debtor's asset pool constitutes a non-derogable imperative that prevails over pre-existing arbitral rights, and that the NCLT's jurisdiction under Section 60(5) extends to adjudicating possessory disputes even where they intersect with arbitration awards, provided the adjudication remains confined to the award's enforceability within the insolvency framework rather than its intrinsic validity. The ruling is a salutary reminder that the moratorium's protective umbrella covers all forms of execution against the Corporate Debtor, ensuring that the collective insolvency process remains insulated from individual creditor enforcement actions that might fragment the corporate estate and frustrate the Code's overarching objective of maximising value for all stakeholders.

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