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INSOLVENCY & BANKRUPTCY

Section 14(1)(d) IBC – SC Rules It Cannot Block CoC?Approved Surrender of Property

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Introduction

The Supreme Court in Sincere Securities Pvt. Ltd. & Ors. v. Chandrakant Khemka & Ors. (2025 INSC 931)reaffirmed the primacy of the Committee of Creditors' (CoC) commercial wisdom during the Corporate Insolvency Resolution Process (CIRP). The Court set aside the National Company Law Appellate Tribunal's (NCLAT) order remanding the matter and restored the National Company Law Tribunal's (NCLT) direction to return possession of the disputed property to the appellants.

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Factual Background of the case

Nandini Impex Private Limited (Respondent) availed financial assistance of Rs. 6 crores by mortgaging its property (ground floor of "White House", New Delhi) to Sincere Securities Pvt. Ltd (Appellant No.1) and Noble Dealcom Pvt. Ltd along with Jodhpur Properties and Finance Pvt Ltd (Appellant Nos. 2 & 3, respectively). On the failure of repayment of the loans, conveyance deeds were executed by all the Appellants wherein the title was transferred to the Appellants respectively. The possession of the land remained with the Respondent under Leave and License Agreements, which were later terminated due to unpaid rent.

Subsequently, UCO Bank (Respondent No. 3) initiated CIRP against Nandini Impex under Section 7 of the Insolvency and Bankruptcy Code (IBC). The sole member of the CoC, UCO determined that there was no need to hold on to the subject property and therefore requested the Resolution Professional to hand over the possession to the Appellants. The NCLT upheld this decision, but the NCLAT set aside this order observing that Section 14(1)(d) of the IBC barred recovery by an owner of property during CIRP, when such property was occupied by the corporate debtor.

Supreme Court's Ruling

The Supreme Court allowed the appeal filed by Sincere Securities Pvt. Ltd., set aside the NCLAT's order of 12 November 2024, and restored the NCLT's order directing the Resolution Professional (RP) to return possession of the disputed property to the appellants.

Primacy of CoC's Commercial Wisdom

Reiterating its decision in K. Sashidhar v. Indian Overseas Bank (2019), the Court held that the commercial wisdom of the Committee of Creditors (CoC) is critical and non-justiciable. UCO Bank, as the sole CoC member, had resolved after due deliberation that retaining the property was financially unviable given the corporate debtor's limited operations and high rental costs. Both the previous and current Resolution Professionals supported this decision, which deserved judicial deference.

Section 14(1)(d) IBC Not Applicable

The Court clarified that Section 14(1)(d), which bars recovery of property during the moratorium, was inapplicable. Here, the CoC and the Resolution Professional themselves opted to surrender possession, making it a consensual decision within the CIRP framework, not a unilateral recovery action by the appellants.

Rejection of Director's Objections

The Court dismissed objections raised by suspended director Chandrakant Khemka, noting that he neither paid rent arrears nor justified retaining the property. His opposition was termed “extraneous and unreasonable,” aimed only at delaying proceedings.

Final Direction

The Supreme Court restored the NCLT’s order and directed the Resolution Professional to promptly hand over possession, emphasizing that CIRP must progress efficiently, free from baseless obstruction.

Conclusion

The Supreme Court’s ruling reinforces the primacy of the CoC’s commercial wisdom in insolvency proceedings and limits judicial interference in such decisions. By holding that Section 14(1)(d) cannot be used to block the consensual return of property approved by the CoC and Resolution Professional, the Court clarified the provision’s scope and upheld the IBC’s objective of swift, value-driven resolution.

It also sends a clear message against obstructive conduct by suspended management, emphasizing that insolvency proceedings cannot be stalled by baseless objections. This judgment strengthens creditor control, simplifies CIRP, and reaffirms the efficiency-oriented design of the IBC.

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