



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

INTERIM APPLICATION NO. 3204 OF 2024
IN
COMMERCIAL EXECUTION APPLICATION NO. 89 OF 2023
AND
COMMERCIAL EXECUTION APPLICATION NO. 89 OF 2023

SARA CHEMICALS AND CONSULTANTS)
A PROPRIETARY CONCERN OF SUNIL M. ARORA)...APPLICANT

V/s.

RAYAPROLU PRABHAKAR SREENIVAS)...RESPONDENT

Mr.Amir Arsiwalla a/w. Ms.Riya Pichaya i/by Indian Law LLP, Advocate for the Applicant.

Mr.Karl Tamboly a/w. Mr.Ranjeev Carvalho, Mr.Zehan Setalwad, Deepal Thakkar, Advocate for the proposed Respondents no.1 to 3.

Ms.Nishtha Mohanty a/w. Mr.Anuj Jhaveri, Ms.Aakanksha Nehra and Mr.Mihir Modi, Advocate for the Respondent no.4.

CORAM : ABHAY AHUJA, J.

DATE : 22nd DECEMBER 2025

ORAL ORDER :-

1. This Interim Application *inter alia* seeks impleadment of the proposed Respondents no.1 to 4 as party Respondents to the Execution Application and to all the pending applications, in addition to other prayers.

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2. Mr. Karl Tamboly, learned Counsel appearing for the Respondents no.1 to 3 and Ms. Nishtha Mohanty, learned Counsel for the Respondent no.4, at the outset, submit that this application as well as the Commercial Execution Application is not maintainable as the Award Debtor viz. Ogene Systems (I) Pvt Ltd. has been dissolved by the order dated 13th April 2023 of the National Company Law Tribunal ("NCLT") and also that this Court has no jurisdiction to entertain this application as well as the Execution Application, in as much as, there are allegations of fraud and misrepresentation involved in the way in which the order dated 13th April 2023 of the NCLT was obtained and the Award Debtor company dissolved as well as the allegation that the directors of the Award Debtor company in connivance with the Resolution Professional have misappropriated the funds of the company, and would have to be decided only by the NCLT or the National Company Law Appellate Tribunal ("NCLAT") and not this Court.

3. Mr. Arsiwalla, learned Counsel for the Applicant, has at the outset submitted that the Applicant did not have any notice of the proceedings before the NCLT nor was any notice as per Regulation 6-A of the Insolvency and Bankruptcy Board of India (Insolvency Resolution

Process for Corporate Persons) Regulation, 2016, given/sent to the Applicant. That, the Interim Resolution Professional ought to have sent a communication along with a copy of the public announcement under Regulation 6 of the said Regulation to all the creditors which has not been done. That, no notice was given to the Decree holder although it is an admitted position that the name of the Decree holder was not shown in the books of accounts.

4. Mr.Arsiwalla has submitted that, since the appointment of the Resolution Professional as well as the liquidation of the company has been without the knowledge or any notice of the application and as the entire Corporate Insolvency Resolution Proceedings (CIRP) was to fraudulently circumvent the liability, the Respondents sought to be impleaded are personally liable, and therefore, this Court may not only implead the Respondents as parties to the Execution Application but also direct them to make disclosures of their personal assets and that the reliefs as sought for in this Application be granted.

5. Mr.Arsiwalla submits a perusal of the petition filed under Section 7 of the Insolvency and Bankruptcy Code, 2016 (the “IBC”) by one ‘Platina Properties and Projects Ltd’ (the “financial creditor”) on 09th

February 2022 shows that the very initiation of the CIRP was fraudulent and intended only to defeat the claim of the Applicant herein. Mr. Arsiwalla submits that the said financial creditor of the Award Debtor did not enter into any agreement to provide financial assistance to it, and rather some amount allegedly transferred by the financial creditor to the Award Debtor was subsequently classified as borrowing and the debt was not reflected in the financial statements of the Award Debtor for the relevant time period and that the claim of the financial creditor was cooked up only for the purpose of getting the Petition admitted and initiating CIRP against the Award Debtor. Mr. Arsiwalla submits that, therefore, there are elements of fraud and misrepresentation involved in the purported dissolution of the Award Debtor and this Court ought to pierce the corporate veil and hold that the proposed Respondents are liable for the fraudulent conduct and violation of the order dated 11th February 2020. Mr. Arsiwalla submits that the Respondents have taken deliberate steps to frustrate the award.

6. Mr. Arsiwalla, learned Counsel further submits that vide order dated 11th February 2020 in Chamber Summons No. 909 of 2018 the Award Debtor company was directed to file an affidavit of disclosure

disclosing its movable and immovable assets and this Court had also restrained the Award Debtor company from dealing with its movable and immovable assets till the adjourned date of hearing and the matter was adjourned to 25th February 2020. That the matter was not listed on 25th February 2020 and was thereafter listed on 04th March 2020 when due to paucity of time the matter was adjourned to 17th March 2020 and thereafter on 11th March 2020, by consent, the matter was stood over to 16th March 2020 and that the stay was operating against the Award Debtor and that the Resolution Professional dealing with the Award Debtor company should have noted the same and the operational debt of the Applicant of around Rs. 15 Crores should not have gone unnoticed by the Resolution Professional.

7. Mr. Arsiwalla submits that even the disclosure dated 14th March 2020 filed by the Managing Director of the Award Debtor was fraught with discrepancies. Mr. Arsiwalla has drawn this Court's attention to a table at paragraph 2 of the disclosure Affidavit submitting that the immovable assets are nil, the movable assets are Rs.5.80 lakhs and cash and bank balance is Rs. 45,000/- whereas at page 382, there is a balance sheet which indicates that the tangible assets of the company

as on 31st March 2020, is Rs.39.84 lakhs and the cash and bank balance are Rs.193.49 lakhs , which is at complete variance from the disclosure made in paragraph 2 of the disclosure Affidavit. Mr. Arsiwalla submits that the reduction in assets of the Award Debtor between the date of the Award and the date of the injunction order is itself indicative of the fraudulent transfers having taken place and that the fixed assets of the Award Debtor could not have been reduced after 11th February 2020 in the light of the injunction against the Award Debtor and that despite injunction order against the Award Debtor, the Order of dissolution of the Award Debtor dated 13th April 2023 notes that the company had no assets whatsoever which shows that the proposed Respondents No. 1 to 3 and the Award Debtor have violated the order dated 11th February 2020.

8. On the other hand, as noted above, at the outset, Mr. Tamboly as well as Ms.Mohanty have opposed the Application on the ground of maintainability and jurisdiction.

9. It is submitted that the Order of the NCLT dated 13th April 2023 directing the dissolution of the Award Debtor company and recording that there are no assets to be disposed of and that the operations of the

Award Debtor have been completely wound up has not been challenged by the Applicant. That, therefore, this Interim Application as well as the Execution Application is not maintainable, as the Award Debtor is not in existence having been dissolved and the Resolution Professional having been relieved. That there cannot be any execution proceedings or any interim application therein against a non-existent person.

10. Mr.Tamboly has further submitted that the grievance of the Applicant with respect to fraud and misrepresentation in obtaining the order dated 13th April 2023 ought to be raised before the NCLT/NCLAT and that this Court in execution has no jurisdiction to entertain any issue that arises out of the CIRP process. Referring to Section 60(1) of the IBC, Mr.Tamboly submits that the adjudicating authority in relation to insolvency resolution and liquidation for corporate persons including corporate debtor and personal guarantors thereof is the NCLT having territorial jurisdiction over the places where registered office of the corporate person is located. Referring to Section 60(5)(c) of the IBC, Mr.Tamboly submits that the said clause is a non-obstante clause which clearly provides that the NCLT shall have jurisdiction to entertain or dispose of any question of priorities or any question of law or facts arising out of or in relation to the insolvency resolution or liquidation

proceedings of the corporate debtor or corporate person under the IBC. Mr.Tamboly submits that, therefore, this Court, in execution has no jurisdiction to decide whether the proceedings under the IBC have been initiated on account of fraud. Mr.Tamboly relies upon the decision of the Hon'ble Supreme Court in the case of *Gujarat Urja Vikas Nigam Limited v. Amit Gupta and Others*¹ in support. Mr.Tamboly further submits that Section 65 of IBC expressly vests the NCLT/NCLAT with jurisdiction over the question of alleged fraudulent initiation of CIRP or liquidation proceedings and relies upon the decision of the Hon'ble Supreme Court in the case of *Embassy Property Developments Private Ltd v State of Karnataka and Others*². Mr. Tamboly further submits that under Section 63 of the IBC there is an express bar against the Civil Court entertaining any suit or proceedings in respect of any matter on which NCLT or NCLAT have jurisdiction. That, therefore, this Court may dismiss not only this application but also the Execution Application as not maintainable and for lack of jurisdiction.

11. For the same reason Mr.Tamboly submits that the injunction order of this Court dated 11th February 2020 cannot be said to have been breached or violated, as the said order itself in paragraph 8

1 (2021) 7 SCC 209

2 (2020) 13 SCC 308

records that the direction to file an Affidavit of disclosure is without in any manner foreclosing the entitlement and right of the Award Debtor to contend that this Court has no jurisdiction, further submitting that the said order of injunction has not continued beyond 16th March 2020.

12. Mr.Tamboly further submits that in any event no case has been made out for lifting of the corporate veil since the Respondents No.1 to 3 are neither a shareholder nor promoter of the Award Debtor and that upon dissolution, the Award debtor company has ceased to exist and there are no assets of the Company remaining and therefore also the Application be dismissed.

13. Mr.Tamboly learned Counsel also submits that in any event the proposed Respondents No.1 to 3 are merely professional directors of the Award Debtor and hence are not personally liable for any monies due by the Award Debtor to the Applicant. Mr. Tamboly relying on the decision of the Hon'ble Supreme Court in the case of *Susela Padmavathy Amma v. Bharti Airtel Limited*³ submits that the directors cannot be made vicariously liable simply because they are directors of the company and that it has to be shown that at the material time, they

3 (2024) 12 SCC 131

were in charge of and were responsible to the company for its conduct and business. Mr. Tamboly submits that the Respondents No. 1 to 3 cannot be held liable for any losses of the Award Debtor in their personal capacity. Mr. Tamboly submits that in any event the suspended management cannot be held liable for the decisions taken by the Committee of Creditors in their commercial wisdom once the CIRP has commenced. That the entire CIRP was under the aegis and supervision of the NCLT and due process of law was followed by the Resolution Professional.

14. Ms.Nishtha Mohanty, learned Counsel appearing for the Respondent No.4, erstwhile Resolution Professional of the Award Debtor also submits that in addition to the application not being maintainable, this Court has no jurisdiction under Sections 63 and 231 of the IBC, and the application ought to be dismissed.

15. In addition to adopting the arguments canvassed by Mr.Tamboly on want of jurisdiction, Ms.Mohanty submits that under Section 231 of the IBC also there is a bar of jurisdiction of a Civil Court in respect of any matter in which the NCLT or the Insolvency and Bankruptcy Board of India (the “IBBI”) is empowered by or under the IBC to pass any

order. Ms.Mohanty submits that any challenge to the dissolution order or process of CIRP has to be filed before the NCLT/NCLAT under Section 65 of the IBC and the jurisdiction of a Civil Court is expressly barred, and that, therefore, this Court has no jurisdiction to entertain this application.

16. As regards the allegations levelled against the Respondent No. 4 that the resolution professional has not performed her duties, Ms.Mohanty submits that the same are incorrect in as much as proposed Respondent no.4 has diligently performed her duties under the IBC and followed the due process as a Resolution Professional. Ms.Mohanty submits that the actions of proposed Respondent no.4 were done in good faith under the IBC and the same are protected under Section 233 of the IBC. Further, as regards the allegation that no publication of notice inviting claims was made by the Respondent No.4, Ms. Mohanty submits that a public announcement dated 08th October 2022 was published in Financial Express Newspaper and Mana Telangana Telugu Newspaper inviting claims from creditors and the last date of claim submission was recorded in the announcement as 20th October 2022. That the notice as per the statutory requirement was also uploaded on the official website of the IBBI and the same is

accessible even today. Ms.Mohanty submits that the Applicant had infact failed to submit its claim before the Resolution Professional despite publication of notice inviting claims and cannot raise want of notice.

17. Ms.Mohanty submits that the Respondent No. 4 was appointed as the Insolvency Resolution Professional and was confirmed as the Resolution Professional in the 1st meeting of the Committee of Creditors dated 03rd November 2022 and that there were no active business operations and no assets of the Award Debtor when the proposed Respondent no.4 was appointed as IRP. That, there were no inventories or plant and machinery owned by the Award Debtor and the company was defunct and accordingly on 13th April 2023 NCLT, Hyderabad passed the order directing dissolution of the Award Debtor.

18. Ms.Mohanty further submits that the Order of the NCLT Hyderabad dated 13th April 2023 has not been challenged by any party including the Applicant and the Order has attained finality and the reliefs as sought for in this application cannot be granted by this Court and can only be granted by the NCLT.

19. Ms.Mohanty submits that, therefore, the present Interim Application and the Execution Application deserve to be dismissed.

20. I have heard the learned Counsel and considered the rival contentions.

21. It is not in dispute that the Execution Application as well as the Interim Application under consideration today is with respect to the arbitral award dated 16th July 2016 modified on 4th May 2018 for payment of Rs.15.14 crores by the Award debtor in favour of the Execution Applicant. The Execution Application was filed on 3rd August 2018 and that as on date the order of the NCLT dated 13th April 2023 has not been challenged by any party including the Applicant and is final.

22. It is not in dispute that on 11th February 2020 this Court in execution had directed disclosure of movable and immovable assets by the Award Debtor and also injuncted the Award Debtor from in any manner dealing with their movable and immovable assets till the adjourned date of hearing, however, what is pertinent to observe is that the said order of disclosure clearly provided that the same was without

in any manner foreclosing the entitlement and right of the Award Debtor to contend that this Court has no jurisdiction. It is also pertinent to note that the said order of injunction was not in force on the date on which the CIRP has been initiated viz. on 26th September 2022 or when the Award Debtor was dissolved on 13th April 2023 as the *suo moto* order of the Hon'ble Supreme Court dated 10th January 2022 ended in May 2022.

23. After filing of the application under Section 7 of the IBC by the financial creditor against the Award Debtor before the NCLT Hyderabad, and after the Application was admitted by the NCLT Hyderabad and CIRP was initiated against the Award Debtor on 26th September, 2022, the Respondent No. 4 was appointed as the IRP and confirmed as the Resolution Professional in the 1st meeting of the Committee of Creditors dated 03rd November 2022.

24. On 08th October 2022, public announcement was published in the Financial Express and Mana Telangana, Telugu newspapers inviting claims from creditors for verification and the last date of submission of the claims was stated in the announcement as 20th October 2022. It is also an admitted position that the notice as per the statutory

requirement was also uploaded on the official website of the IBBI and the same is even accessible today.

25. That in and around October and November 2022 two valuers were appointed to value the financial assets of the Award Debtor company and the Summary of the Valuation Reports disclosed an average value of the assets of the Award Debtor only at Rs.87,000/-.

26. On 13th March 2023, the Committee of Creditors (the “COC”) in its meeting resolved and approved the dissolution of the Respondent Company and directed the Respondent No.4 Resolution Professional to file the necessary application before the NCLT.

27. On 19th March 2023, on the directions of the COC, Respondent No. 4 filed Interim Application No. 520 of 2023 for dissolution of the Respondent Company by placing the Valuation reports and Minutes of Meetings of the COC before the NCLT, Hyderabad.

28. On 13th April 2023 the NCLT, Hyderabad passed an order directing dissolution of the Award Debtor and recorded that there were no assets to be disposed of and that the operations of the Award Debtor had been completely wound up.

29. On 14th February, 2024 when the Execution Application No. 89 of 2023 was listed before this Court, the Counsel appearing for the Resolution Professional submitted that the Award Debtor company had been liquidated and not in existence. Accordingly the Applicant herein sought time to take instructions.

30. However, on 13th June 2024, the Applicant has instituted this Application for impleadment of Respondents No. 1 to 4 to the Execution Application.

31. The proposed Respondents have raised an objection as to the maintainability of the application and the jurisdiction of this Court.

32. Admittedly there has been no challenge to the Order of the NCLT dated 13th April 2023 and the same has attained finality and the Award Debtor Company has stood dissolved. It has, in my view, therefore been rightly contended on behalf of the Respondents that no proceedings can be initiated or continued against the Award Debtor, who is non-existent.

32A. But what the Applicant is seeking by this application is to implead the Respondents who are the ex-directors of the dissolved Award Debtor and its erstwhile Resolution Professional and to execute the award

against them in their personal capacities on the ground that the proceedings under the IBC were fraudulent and only intended to defeat the claim of the Applicant and frustrate the Award.

33. The first submission that has been canvassed on behalf of the Applicant is that no proper notice under Regulation 6A of the IBBI (Insolvency Resolution Process of Corporate Persons) Regulation 2016 had been given to the Execution Applicant and since the Execution Applicant is an Award holder, who had no knowledge of the same, the entire CIRP and the dissolution stand vitiated. I am afraid, I am unable to accept this contention. Regulation 6-A pertains to communication to the creditor by the IRP along with a copy of the public announcement made under Regulation 6 to all the creditors as per the last available books of accounts of the Corporate debtor through post or electronic means wherever the information for communication is available and where it is not possible to send a communication to the creditors, the public announcement made under Regulation 6 shall be deemed to be communicated to such creditors. In the facts of this case, admittedly, the Execution Applicant was neither shown as creditor in the books of accounts of the Award debtor, nor sent any notice. However, admittedly there has been a public announcement dated 8th October

2022 by the Resolution Professional which has been published in the Financial Express Newspaper and Mana Telangana Telugu Newspaper inviting claims from creditors and that the said notice was also uploaded on the official website of the IBBI. Therefore, the ground taken by the Execution Applicant that no notice as per law has been sent to the Award debtor is not tenable.

34. Coming to the objection of the Respondents regarding jurisdiction of this Court to entertain the Execution Application as well as the Interim Application, it would be pertinent first to refer to Sections 60, 65, 63 and 231 which are usefully quoted as under:

“Section 60. Adjudicating Authority for corporate persons:-

(1) The Adjudicating Authority, in relation to insolvency resolution and liquidation for corporate persons including corporate debtors and personal guarantors thereof shall be the National Company Law Tribunal having territorial jurisdiction over the place where the registered office of the corporate person is located.

(2) Without prejudice to sub-section (1) and notwithstanding anything to the contrary contained in this Code, where a corporate insolvency resolution process or liquidation proceeding of a corporate debtor is pending before a National Company Law Tribunal, an application relating to the insolvency resolution or liquidation or bankruptcy of a corporate guarantor or personal guarantor, as the case may be, of such corporate debtor shall be filed before such National Company Law Tribunal.

(3) An insolvency resolution process or liquidation or bankruptcy proceeding of a corporate guarantor or personal guarantor, as the

case may be, of the corporate debtor pending in any court or tribunal shall stand transferred to the Adjudicating Authority dealing with insolvency resolution process or liquidation proceeding of such corporate debtor.

(4) The National Company Law Tribunal shall be vested with all the powers of the Debt Recovery Tribunal as contemplated under Part III of this Code for the purpose of sub-section (2).

(5) Notwithstanding anything to the contrary contained in any other law for the time being in force, the National Company Law Tribunal shall have jurisdiction to entertain or dispose of -

(a) any application or proceeding by or against the corporate debtor or corporate person;

(b) any claim made by or against the corporate debtor or corporate person, including claims by or against any of its subsidiaries situated in India; and

(c) any question of priorities or any question of law or facts, arising out of or in relation to the insolvency resolution or liquidation proceedings of the corporate debtor or corporate person under this Code.

(6) Notwithstanding anything contained in the Limitation Act, 1963 (36 of 1963) or in any other law for the time being in force, in computing the period of limitation specified for any suit or application by or against a corporate debtor for which an order of moratorium has been made under this Part, the period during which such moratorium is in place shall be excluded.

Section 65. Fraudulent or malicious initiation of proceedings

(1) If, any person initiates the insolvency resolution process or liquidation proceedings, fraudulently or with malicious intent for any purpose other than for the resolution of insolvency, or liquidation, as the case may be, the adjudicating authority may impose upon such person a penalty which shall not be less than one lakh rupees, but may extend to one crore rupees.

(2) If, any person initiates voluntary liquidation proceedings with the intent to defraud any person, the adjudicating authority may

impose upon such person a penalty which shall not be less than one lakh rupees but may extend to one crore rupees.

(3) If any person initiates the pre-packaged insolvency resolution process-

(a) fraudulently or with malicious intent for any purpose other than for the resolution of insolvency; or

(b) with the intent to defraud any person, the Adjudicating Authority may impose upon such person a penalty which shall not be less than one lakh rupees, but may extend to one crore rupees.”

Section 63. Civil Court not to have jurisdiction

No civil court or authority shall have jurisdiction to entertain any suit or proceedings in respect of any matter on which National Company Law Tribunal or the National Company Law Appellate Tribunal has jurisdiction under this Code.

Section 231. Bar of jurisdiction

No civil court shall have jurisdiction in respect of any matter in which the Adjudicating Authority or Board is empowered by, or under, this Code to pass any order and no injunction shall be granted by any court or other authority in respect of any action taken or to be taken in pursuance of any order passed by such Adjudicating Authority under this Code.”

(emphasis supplied)

35. As can be seen, that the adjudicating authority in relation to insolvency resolution and liquidation for Corporate persons including Corporate debtor and personal guarantor thereof is the NCLT having territorial jurisdiction over the places where the registered office of the Corporate person is located. In the facts of this case, it is the NCLT, Hyderabad. Section 60(5)(c) of the IBC is a non-obstante clause which clearly provides that the NCLT shall have jurisdiction to entertain or

dispose of any question of priorities or any question of law or facts arising out of or in relation to the insolvency resolution or liquidation proceedings of the Corporate debtor or Corporate person under the IBC. The other ground, as noted above, that has been sought to be canvassed on behalf of the Execution Applicant is fraud and misappropriation of funds in obtaining the order dated 13th April 2023 from the NCLT. Fraud, misrepresentation, misappropriation of funds are allegations involving facts and which have to be proved by adducing evidence. The challenge on the basis of these allegations is to the order dated 13th April 2023 passed by the NCLT whereby the NCLT has passed an order directing dissolution of the Award debtor recording that there are no assets to be disposed of and that the operations of the Award debtor have been completely wound up. In my view, the NCLT/NCLAT have jurisdiction to determine the aforesaid facts and also to decide whether the order dated 13th April 2023 was vitiated by fraud, misrepresentation and misappropriation thereby. Infact, Section 65, as noted above, also provides for penalty for fraud or malicious intent in the initiation of the insolvency resolution process or liquidation proceedings. I agree with Mr.Tamboly and with Ms.Mohanty that this Court in execution has no jurisdiction to decide whether the proceedings under the IBC have been vitiated on account of fraud.

Under Section 63 of the IBC there is an express bar against the Civil Court entertaining any Suit or proceedings in respect of any matter on which the NCLT or NCLAT has jurisdiction. Even Section 231 of the IBC provides that no Civil Court shall have jurisdiction in respect of any matter in which the adjudicating authority viz. the NCLT in this case / NCLAT or the IBBI is empowered by or under the Code to pass any order and no injunction shall be granted by any Court or other authority in respect of any action taken or to be taken in pursuant to any order passed by the NCLT / NCLAT or the IBBI under the IBC.

36. In the decision of *Gujarat Urja Vikas Nigam Limited v. Amit Gupta and Others (supra)*, the Hon'ble Supreme Court held that the residuary jurisdiction of NCLT under Section 60(5)(c) of the IBC provides a wide discretion to adjudicate questions of law or fact arising from or in relation to the insolvency resolution proceedings.

37. In the decision of *Embassy Property Developments Private Ltd v. State of Karnataka and Others (supra)* the Hon'ble Supreme Court while deciding the question of whether the question of fraud can be inquired into by the NCLT/NCLAT in the proceedings initiated under the IBC, the Hon'ble Supreme Court has held that the NCLT is vested

with the power to inquire into (i) fraudulent initiation of proceedings as well as (ii) fraudulent transactions.

38. It is the case of the Applicant that there are elements of fraud and misrepresentation involved in the way in which the order dated 13th April 2023 of the NCLT was obtained and the Award Debtor company dissolved and also that the directors of the Award Debtor company in connivance with the Resolution Professional misappropriated the funds of the company which although denied raised questions of fact in relation to the insolvency resolution as well as the liquidation proceedings of the Award Debtor and challenge to the process of dissolution of the order would have to be filed only before the NCLT / NCLAT as under Section 60(5) as well as under Section 231 of the IBC, the jurisdiction of the Civil Court is barred. Such exercise of jurisdiction by the NCLT, in my view, would not be dehors the insolvency proceedings nor would the same fall outside the realm of IBC.

39. Moreover, it is also trite law that a Court executing a decree cannot go behind the decree between the parties or their representatives and it must take the decree according to its tenor, and

cannot entertain any objection that the decree was incorrect in law or on facts until it is set aside by an appropriate proceeding in appeal or revision, a decree even if it be erroneous is still binding between the parties. In the facts of this case, the Applicant is not only asking the Court to go behind the decree but also to go behind the Order of dissolution of the Award Debtor for which this Court does not have jurisdiction.

40. In view of the above discussion, I hold that the Execution Application is not maintainable and that this Court also has no jurisdiction to entertain or decide this application. The other arguments of the learned Counsel and the judgments relied upon, therefore, need not be gone into.

41. Ergo, the Execution Application as well as the Interim Application stand dismissed. Consequently, the connected Chamber Summons No.909 of 2018 also stands dismissed.

42. Interim order(s), if any, to stand vacated.

(ABHAY AHUJA, J.)