

\$~4

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

Date of decision: 16th October, 2020

+ **W.P.(C) 7891/2020 and CM APPLs. 25865/2020, 25866/2020**

HARMANDER SINGH SRAN

..... Petitioner

Through: Mr. Damanbir Singh Sobti, Advocate.

versus

M/S HBN DAIRIES AND ALLIED LIMITED &
ORS.

..... Respondents

Through: Mr. Vivek Goyal, CGSC for R-3.

CORAM:

JUSTICE PRATHIBA M. SINGH

Prathiba M. Singh, J.(Oral)

1. This hearing has been held through video conferencing.
2. The present petition has been filed by the Petitioner, who is an ex/suspended Director of Respondent No. 1 Company i.e. M/s. HBN Dairies and Allied Limited (*hereinafter "Company"*), which is currently under insolvency proceedings before the National Company Law Tribunal (NCLT). The submission of the Id. Counsel is that the Petitioner's residence is sought to be attached and possession is sought to be taken by the Liquidator. An application has been moved by the Petitioner before the NCLT and the same is not being taken up for hearing due to the term of the Presiding Officer having ended and no new Presiding Officer has been appointed.
3. A perusal of the record shows that earlier, there have been

proceedings, which were initiated by the Securities Exchange Board of India (SEBI) against the Company. The SEBI Appellate Tribunal had directed valuation and sale of certain properties of the Company, vide its order dated 28th June, 2017. Thereafter, SEBI is stated to have attached securities of around Rs.1300 crores from Respondent No.1. The recovery proceedings by SEBI are pending.

4. In the meanwhile, insolvency proceedings were commenced against the Company in the NCLT, and moratorium was declared under Section 14 of the Insolvency and Bankruptcy Code, 2016, vide order dated 14th August, 2018. Since the Resolution plan failed, the company is now under liquidation. Respondent No.2 who was earlier appointed as the Resolution Professional is now the Liquidator of the Company,. He is currently in-charge of Respondent No.1/Company's assets.

5. Parallely, an appeal was filed by SEBI against an order of the NCLT dated 30th April, 2019, by which SEBI had been directed to handover control of all assets of the Company to the Resolution Professional. In the said civil appeal, the Supreme Court has passed the order dated 17th June, 2019 which reads:

“ Mr. Abhinav Shrivastava, Mr. Puneet Singh Bindra and Mr. Ritesh Agrawal, Advocates-on-Record waive notice on behalf of Respondent Nos.1, 2 to 34 and 36 respectively.

Counter affidavit be filed within ten days and rejoinder affidavit, if any, be filed within one week thereafter.

List before the appropriate Bench, in the week commencing from 8th July, 2019.

In the meanwhile, the resolution professional may continue to perform his functions. We, however, only

grant stay of the direction of the NCLT in so far as it has directed SEBI to hand over the title deeds to the resolution professional. It is further made clear that the SEBI shall not in any manner create any encumbrance on the properties held by them by virtue of the title deeds.”

6. However, in the meanwhile, the Petitioner's residential house at Punjabi Bagh is being sought to be attached/auctioned by the Liquidator. The case of the Petitioner is that the value of the properties, which are under the control of SEBI, is worth more than Rs.2000/- crores, as on date, and accordingly, the said assets would be more than sufficient to take care of the liabilities of the Company. He further submits that the possession of the residential house, in which the Petitioner is living with his family, is sought to be taken by the Liquidator.

7. Mr. Sobti, Id. counsel submits that the Petitioner has moved an application before the NCLT, which has been registered as IA No. 4022/2020. However, the said application is not being listed on the ground that the term of the Presiding Officer i.e. the Chairperson has completed and no new Chairperson has been appointed. Accordingly, the Petitioner prays that he wishes to press the application before the NCLT, as his residential house is under threat of being sold/attached.

8. Advance copy of the present petition is stated to have been served upon the Liquidator. However, none appears for the Liquidator. The limited prayer at this stage is that the Petitioner should get a hearing before the NCLT, in view of the eminent threat of his residential house being taken over.

9. In view of the above facts and circumstances, it is directed that the

application of the Petitioner filed before the NCLT, being IA No. 4022/2020 be listed and taken up for hearing, before any Bench of the NCLT which is currently holding its sittings. The NCLT may hear the parties in accordance with the procedure and pass appropriate orders, in the application filed by the Petitioner. Until the application filed by the Petitioner is heard, no coercive measures shall be taken in respect of the residential house of the Petitioner being Plot No.6, Road No. 73, Class B, Punjabi Bagh Colony, Punjabi Bagh West, New Delhi. The NCLT shall endeavour to hear the application and pass appropriate orders, within a period of three months from today.

10. The present petition, along with all pending applications is disposed of, in the above terms.

OCTOBER 16, 2020
MR/A

PRATHIBA M. SINGH, J.

