

NATIONAL COMPANY LAW TRIBUNAL, MUMBAI BENCH

COURT III

108. I.A. 2261/2022

I.A. 477/2022

I.A. 2298/2021

I.A. 2297/2021

I.A. 308/2021

IN

C.P.(IB)-4135(MB)/2018

CORAM: MS. LAKSHMI GURUNG, MEMBER (J)
SH. CHARANJEET SINGH GULATI, MEMBER (T)

ORDER SHEET OF THE HEARING OF MUMBAI BENCH OF THE NATIONAL
COMPANY LAW TRIBUNAL ON **22.02.2024**

NAME OF THE PARTIES: USV Pvt Ltd.

V/s.

Lok Housing & Construction Ltd.

SECTION 7 OF IBC, 2016

ORDER

Hearing Through: Virtually and Physical (Hybrid) Mode

Adv. Rohan Agrawal for applicant in IA 308/2021, Adv. Sabeena Mahadik a/w.
Adv. Pankaj Uttardhi for applicant in IA 2297,2298/2021, Adv. M. S. Bhardwaj
for applicant in IA 2261/2022, Adv. Amir Arsiwala for applicant in IA
477/2022 and Adv. Harsh Keshari for RP in all IAs except IA 477/2022 are
present.

I.A. 308/2021

This is an application filed by the applicants against the RP of Lok Housing & Construction Ltd under section 60(5) (c) seeking following reliefs:

- a) *That this Hon'ble Court may be pleased to direct the Respondent to delete the suit property mentioned at Sr. No. 1 of the table published in detailed invitation Expression of Interest in connection with Form G dated 4th January, 2021 in respect of Corporate Insolvency Resolution Process of the Corporate Debtor;*
- b) *That in alternative this Hon'ble Court may be pleased to direct the Respondent to record the objection of the Applicants with respect to the suit property mentioned at Sr. No. 1 of the table published in detailed invitation Expression of Interest in connection with Form G dated 4th January, 2021 in respect of Corporate Insolvency Resolution Process of the Corporate Debtor;*
- c) *That this Hon'ble Court may be pleased to hold that the Corporate Debtor or any successful Resolution Applicant of the Corporate Debtor shall be subjected to the Outcome of the Special Civil Suit number 8 of 2015 in which the Applicants have sought Declaration of cancellation of development rights of the suit property in favour of the Corporate Debtor;*
- d) *That this Hon'ble Tribunal may be pleased to pass interim and Ad interim orders in terms of prayer clause (a) and (b) above;*
- e) *That this Hon'ble Tribunal may be pleased to pass any other order in the interest of justice that it deem fit;*
- f) *For the cost of the Application.*

During the hearing of the matter, counsel for the applicant fairly conceded that he is not pressing prayer clause (a) and (c).

As regard prayer clause (b), we hereby direct the RP to carry out appropriate amendment in the invitation for Expression of Interest, as far as the suit property at Ambernath is concerned as reflected in other disputed properties. With the above directions, the above I.A. is **disposed of**.

I.A. 2298/2021 & I.A. 2297/2021

Ld. counsel for RP seeks time to file additional affidavit and the advance intimation has been given to the opposite side. At his request, list on **04.04.2024**.

I.A. 2261/2022

This is an application filed by the Deputy Salt Commissioner against the RP of Lok Housing & Construction Ltd for following reliefs:

- a) *That the lands in Survey Nos. 139/CTS No. 1 (Area 49 Acres 38, Gunthas, 12 Annas) of Trombay Village and Survey No. 89/CTS No.2 (Area 88 Acres, 18.3/4 Gunthas) and 92/CTS No.5 (Area 54 Acres, 9 gunthas) of Village Mandale MSD, which are under two Salt Works named Hanuman and Fateh Sulan shall be released in favour of the Applicant;*
- b) *That the Respondent (Resolution Professional) of the Corporate Debtor shall be injuncted from taking possession of lands in Survey Nos.139/CTS No.1 (Area 49 Acres 38, Gunthas, 12 Annas) of Trombay Village and Survey No. 89/CTS No.2 (Area 88 Acres, 18.3/4 Gunthas) and 92/CTS No.5 (Area 54 Acres, 9 Gunthas) of Village Mandale MSD, which are under two Salt Works named Hanuman and Fateh Sultan as assets of the Corporate Debtor;*
- c) *That the lands in Survey Nos. 139/CTS No.1 (Area 49 Acres 38, Gunthas, 12 Annas) of Trombay Village and Survey No.89/CTS No.2 (Area 88*

Acres, 18.3/4 Gunthas) and 92/CTS No.5 (Area 54 Acres, 9 Gunthas) of Village Mandale MSD, which are under two Salt Works named Hanuman and Fatesh Sultan shall not be taken as Liquidation assets of the Corporate Debtor;

- d) Pending the final disposal of the Appeals & Suits before the Hon'ble Bombay High Court, the injunction granted vide the order dated 06.02.2017 of the Hon'ble Supreme Court of India, which states that status quo must be maintained in respect of the nature and possession of the aforesaid lands i.e. an injunction against creation of Third-Party rights on the said lands, no application, if any filed for Liquidation shall be admitted against the Corporate Debtor;*
- e) Pending the hearing and final disposal of this present application, no application for Liquidation shall be admitted against the Corporate Debtor;*
- f) To pass any such Order or Orders as this Hon'ble Tribunal may deem fit and expedient;*

Heard the counsel for applicant. Though prayer clause (a) is being persistently pressed, the moratorium is subsisting against the assets of the Corporate Debtor, therefore, prayer clause (a) cannot be granted and is rejected.

Prayer clause (c), (d) & (e) are misconceived as Corporate Debtor is not in liquidation.

Only prayer clause (b) remained. We are informed that the Hon'ble Bombay High Court has passed an order dated 21.02.2024 which has relevance in the present case. In view of the same, list on **09.05.2024**.

I.A. 477/2022

It is noted from the DMS that Respondent No.2 has filed reply on 24.03.2022, however, the same is lying defective since 27.04.2022 with remarks "English

Translation not enclosed". Despite defect being pointed out on 27.04.2022, Respondent No.2 has not taken steps to clear the defect. Respondent No.2 is directed to make sure that the reply is defect free and displayed on DMS well before the next date of hearing otherwise it would be presumed that R-2 has given up its right to file reply. List on **04.04.2024**.

Sd/-
CHARANJEET SINGH GULATI
Member (Technical)
---Rajeev---

Sd/-
LAKSHMI GURUNG
Member (Judicial)