

ITEM NO.36

COURT NO.1

SECTION PIL-W

S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G S

Writ Petition(s) (Civil) No(s).744/2017

CHITRA SHARMA & ORS.

Petitioner(s)

VERSUS

UNION OF INDIA & ORS.

Respondent(s)

(FOR STAY APPLICATION ON IA 78870/2017	and	IA
No.82520/2017-INTERVENTION/IMPLEADMENT	and	IA
No.84034/2017-INTERVENTION APPLICATION	and	IA
No.84183/2017-INTERVENTION/IMPLEADMENT	and	IA
No.85310/2017-INTERVENTION APPLICATION	and	IA
No.85580/2017-INTERVENTION/IMPLEADMENT	and	IA
No.86153/2017-INTERVENTION/IMPLEADMENT	and	IA
No.87561/2017-INTERVENTION APPLICATION	and	IA
No.87562/2017-APPROPRIATE ORDERS/DIRECTIONS	and	IA
No.87768/2017-APPROPRIATE ORDERS/DIRECTIONS	and	IA
No.88028/2017-INTERVENTION/IMPLEADMENT	and	IA
No.88581/2017-INTERVENTION/IMPLEADMENT	and	IA
No.88582/2017-APPROPRIATE ORDERS/DIRECTIONS)		

Date : 11-09-2017 These matters were called on for hearing today.

CORAM :

HON'BLE THE CHIEF JUSTICE
HON'BLE MR. JUSTICE A.M. KHANWILKAR
HON'BLE DR. JUSTICE D.Y. CHANDRACHUD

For Petitioner(s) Mr.Ajit Kumar Sinha, Sr.Adv.
Mr.Ashwarya Sinha, AOR
Mrs.Priyanka Sinha, Adv.
Mr.Srijan Sinha, Adv.
Mr.Himanshu Chaubey, Adv.
Ms.Ajita Tandon, Adv.
Ms.Ameyvikrama Thanvi, Adv.
Ms.Alankrita Sinha, Adv.
Mrs.Mohini Priya, Adv.
Mr.Girik Bhalla, Adv.

Mr.K.V.Viswanathan, Sr.Adv.
Ms.Mohana, Adv.
Ms.Geetali Talukdar, Adv.
Ms.Sujeeya Srivastava, Adv.

Mr.Manoj Goel, Adv.
Mr.Naman Kamboj, Adv.
Mr.Shuvodeep Roy, AOR

Md.Izhar Alam, Adv.
 Mr.M.P.Singh, Adv.
 Mr.Fuzail Ahmad Ayyubi, AOR

Mr.Varun K.Chopra, Adv.

For Respondent(s)/
 Applicant(s)

Mr.K.K.Venugopal, AG
 Ms.Madhvi Divan, Adv.
 Ms.Nidhi Khanna, Adv.
 Mr.Ayush Puri, Adv.

Mr.Tushar Mehta, ASG
 Ms.Swarupama Chaturvedi, AOR
 Mr.K.P.Singh, Adv.
 Mr.B.N.Dubey, Adv.

Dr.Abhishek Manu Singhvi, Sr.Adv.
 Mr.L.Vishwanathan, Adv.
 Mr.Bishwajit Dubey, Adv.
 Ms.Srideepa Bhattacharya, Adv.
 Mr.Aditya Marwah, Adv.
 For M/s. Cyril Amarchand Mangaldas Aor, AOR

Mr.P.Chidambaram, Sr.Adv.
 Mr.J.K.Das, Sr.Adv.
 Mr.Shankh Sengupta, Adv.
 Mr.Sandeep Devashish Das, Adv.
 Mr.Pallav Shukla, Adv.
 Mr.Ramakant Rai, Adv.

Mr.P.S.Patwalia, Sr.Adv.
 Mr.Pawan Upadhyay, Adv.
 Mrs.Anisha Upadhyay, Adv.
 Mr.Nishant Kumar, Adv.
 Mr.Krishna Kanodia, Adv.
 Ms.Sharmila Upadhyay, Adv.

Mr.R.S.Suri, Sr.Adv.
 Mr.Pawan Upadhyay, Adv.
 Ms.Sharmila Upadhyay, Adv.
 Mr.Ratik Sharma, Adv.
 Mr.Akash Tyagi, Adv.

Mr.Anand Grover, Sr.Adv.
 Mr.Anvesh Verma, Adv.
 Mr.Rakshit Thakur, Adv.
 Mr.Vijayant Singh, Adv.
 Mr.Shovan Mishra, Adv.

Mr.Abhimanyu Bhandari, Adv.
 Ms.Nattasha Garg, Adv.

Mr.Rajiv Virmani, Adv.
Mr.Naveen Kumar, AOR

Mr.D.K.Singh, AAG
Ms.Komal Mundhra, Adv.
Mr.Saurabh Agrawal, Adv.

Mr.Ajit Sharma, AOR

Mr.Ashwarya Sinha, AOR

Mr.Bijoy Kumar Jain, AOR

Mr.Varinder Kumar Sharma, AOR
Ms.Parul Sharma, Adv.

Ms.Anil Katiyar, AOR

Mr.Nakul Dewan, Adv.
Mr.Pradhuman Gohil, Adv.
Ms.Taruna Singh Gohil, AOR

Mr.Amit Sharma, AOR
Mr.Dipesh Sinha, Adv.
Ms.Ayiala Imti, Adv.

UPON hearing the counsel the Court made the following
O R D E R

All the applications for intervention/impeadment are
allowed.

I.A.No.87575 of 2017 in SLP(C)No.24001 & 24002/2017
(D.No.27277/2017, 27579/2017 & 27624/2017)

The present interlocutory application has been filed by
the IDBI Bank Limited in the special leave petitions which have
been registered as SLP(C)Nos.24001 & 24002/2017.

This is an application for vacating/modification of the
order dated 04.09.2017. On that day, this Court while issuing
notice, had passed the following order:

"In the meantime the impugned order(s) passed
by the National Company Law Tribunal, Allahabad shall

remain stayed until further orders.

A copy of the special leave petition be served on the office of learned Attorney General for India. All applications for impleadment/intervention stand allowed."

Mr.K.K.Venugopal, learned Attorney General for India appearing for respondent Nos.1 and 2 submitted that the order passed by this Court on 04.09.2017 needs to be vacated or modified because the consequence of the stay would be that the Management of respondent No.3 - Jaypee Infratech Ltd. would stand restored. This was not a consequence intended by this Court. It is urged by him that if the erstwhile Management of the said company continues, it will affect the rights of the creditors and the consumers as well.

In the course of the hearing, we have been informed that after the order of stay was passed by this Court, the Interim Resolution Professional (IRP) has handed over records to respondent No.3 - Jaypee Infratech Ltd. ("JIL"). It is submitted by Mr.K.K.Venugopal, learned Attorney General that some time should be granted to the IRP to formulate at least a preliminary scheme so that the interest of all stakeholders is protected. He has also shown his concern for the interest of the home buyers.

Dr.Abhishek Manu Singhvi, learned Senior Counsel appearing for IDBI Bank Limited - (respondent No.6 in the writ petition) submits that under the statutory scheme, the IRP has to take over otherwise the letter and spirit of the Act is likely to be affected.

Learned counsel appearing for the home buyers, in contra, submits that they belong to the lower and middle income group and

have invested life savings with JIL and with its holding company, Jai Prakash Associates Ltd. ("JAL"). It has been assiduously urged that the investments of flat purchasers are with JIL and JAL and, therefore, the interest of the purchasers may be protected. It is also argued that if the IRP is restored, there should be a representative from the home buyers or this Court may appoint someone on this Committee of Creditors and espouse the interests of the home buyers.

Having heard learned counsel for the parties at length, in modification of the order dated 04.09.2017, we issue the following directions:

- a) The IRP shall forthwith take over the Management of JIL. The IRP shall formulate and submit an Interim Resolution Plan within 45 days before this Court. The Interim Resolution Plan shall make all necessary provisions to protect the interests of the home buyers;
- b) Mr. Shekhar Naphade, learned senior counsel along with Ms. Shubhangi Tuli, Advocate-on-Record, shall participate in the meetings of the Committee of Creditors under Section 21 of the Insolvency and Bankruptcy Code, 2016 to espouse the cause of the home buyers and protect their interests;
- c) The Managing Director and the Directors of JIL and JAL shall not leave India without the prior permission of this Court;
- d) JAL which is not a party to the insolvency proceedings, shall deposit a sum of Rs.2,000 crores (Rupees two thousand crores) before this Court on or before 27.10.2017. For the said purpose, if any assets or property of JAL have to be sold, that should be done after obtaining prior approval of this Court. Any person who was a

Director or Managing Director of JIL or JAL on the date of the institution of the insolvency proceedings against JIL as well as the present Directors/Managing Director shall also not leave the country without prior permission of this Court. The foregoing restraint shall not apply to nominee Directors of lending institutions (IDBI/ICICI/SBI);

e) All suits and proceeding instituted against JIL shall in terms of Section 14(1)(a) remain stayed as we have directed the IRP to remain in Management.

Be it clarified that we have passed this order keeping in view the provisions of the Act and also the interest of the home buyers.

I.A.stands disposed of accordingly.

The matter be listed at 2.00 P.M. on 13.11.2017.

The prior date given by this Court i.e. 10.10.2017 stands cancelled.

(SATISH KUMAR YADAV)
AR-CUM-PS

(SHAKTI PARKASH SHARMA)
ASST.REGISTRAR