

ITEM NO.18 Court 7 (Video Conferencing) SECTION XVII

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS

Civil Appeal No(s). 1871-1872/2022

MAHENDRA KUMAR JAJODIA

Appellant(s)

VERSUS

STATE BANK OF INDIA STRESSED ASSET MANAGEMENT BRANCH, A STATUTORY
BODY CORPORATE CONSTITUTED UNDER THE STATE BANK OF INDIA ACT 1955
HAVING ITS REGISTERED OFFICE AT 8TH FLOOR NAGALAND HOUSE 11& 13
SHAKESPEARE SARANI , KOLKATA Respondent(s)

(IA No.34384/2022-EXEMPTION FROM FILING C/C OF THE IMPUGNED
JUDGMENT and IA No.34382/2022-STAY APPLICATION)

Date : 21-03-2022 These appeals were called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE S. ABDUL NAZEER
HON'BLE MR. JUSTICE VIKRAM NATH

For Appellant(s) Mr. Abhijeet Sinha, Adv.
Mr. Arijit Mazumdar, Adv.
Mr. Shambo Nandy, Adv.
Mr. Supriyo Gole, Adv.
Mr. Saikat Sarkar, Adv.
Mr. Aditya Shukla, Adv.
Mr. Abhinav Mukerji, AOR

For Respondent(s)

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

Learned counsel for the appellant has drawn our attention to
the following portion of paragraph 108 of the Judgment rendered by
this Court on 21.05.2021 in Transferred case No. 245 of 2020 etc.
entitled Lalit Kumar Jain vs. Union of India & Ors. reported in
2021(9) SCC 321:

"Section 60(2) prescribes that in the event of an ongoing resolution process or liquidation process against a corporate debtor, an application for resolution process or bankruptcy of the personal guarantor to the corporate debtor shall be filed with NCLT concerned seized of the resolution process or liquidation. Therefore, the Adjudicating Authority for personal guarantors will be NCLT, if a parallel resolution process or liquidation process is pending in respect of a corporate debtor for whom the guarantee is given. The same logic prevails, under Section 60(3), when any insolvency or bankruptcy proceeding pending against the personal guarantor in a court or tribunal and a resolution process or liquidation is initiated against the corporate debtor. Thus if A, an individual is the subject of a resolution process before the DRT and he has furnished a personal guarantee for a debt owed by a company B, in the event a resolution process is initiated against B in an NCLT, the provision results in transferring the proceedings going on against A in the DRT to NCLT."

Issue notice.

Until further orders, there shall be stay of the operation of the impugned Order passed by the National Company Law Appellate Tribunal, Principal Bench, New Delhi.

(NEELAM GULATI)
ASTT. REGISTRAR-cum-PS

(ANJU KAPOOR)
COURT MASTER (NSH)