

NATIONAL COMPANY LAW APPELLATE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI

Company Appeal (AT) (Ins) No.978 of 2021

IN THE MATTER OF:

Sunil Kumar Agrawal

...Appellant

Versus

Office of Sub-Registrar & Anr.

...Respondents

For Appellant: Mr. Rakesh Kumar, Ms. Preeti Kashyap and Mr. Ankit Sharma, Advocates

For Respondent: None

O R D E R
(Virtual Mode)

02.12.2021 This Appeal has been filed against the Order dated 27.09.2021 passed by the National Company Law Tribunal, New Delhi, Court – V in IA No.565/2021 in IB-2083/ND/2019. The Application has been filed as I.A. No.565 of 2021 praying that necessary direction may be issued to Sub-Registrar, Revenue Authority for registration of property- B-354, Mangolpuri Industrial Area, Phase – 1, New Delhi – 110083 in favour of the Corporate Debtor. Learned Adjudicating Authority considered the submissions of the Applicant and by the impugned Order, has rejected the Application. The Adjudicating Authority while rejecting the Application, has made following observations:-

“A bare perusal of the provisions shows that a contract for sale of immovable property is a contract that a sale of such property shall take place on terms settled between the parties. It does not of itself create any interest in or charge on such property and this has

also been decided by the Hon'ble Supreme Court in (2010) 8 SCC 383 that an agreement does not create any right or title in favour of intending buyer, therefore, in view of the aforesaid decisions and provision of law, we are of the considered view that merely there was an agreement to transfer the property, it does not create any right or any interest in favour of the Corporate Debtor. Therefore, merely this property is shown as an asset of the Corporate Debtor and it is included under the Resolution Plan submitted by the Resolution Applicant, in our considered view, on this ground alone, we cannot direct the District sub-Registrar, Respondent No.1 to execute and register a sale deed in favour of the Corporate Debtor. The remedy available to the Resolution Professional is to file an application before the Competent Court for the specific performance of contract.

For the reasons discussed above, we are not inclined to allow the prayer of the applicant. Accordingly, the prayer of the applicant is hereby rejected. However, it is made clear that by passing this order, we have not decided the merit of agreement arrived in between the parties. The Resolution Professional is at liberty to file an appropriate case before the Competent Court under the relevant provision of law. Accordingly, the present **application is dismissed.**"

We have heard learned Counsel for the Appellant and perused the record. It is not denied that property was in the name of proprietorship firm and could not be transferred in favour of the Corporate Debtor to be the reason which has been given by the Adjudicating Authority. Learned Counsel

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for the Appellant has submitted that even if the Adjudicating Authority was of the view that direction could not have been issued to the Sub-Registrar, they should have left it open to the Applicant to take such recourse in law as permissible. The view taken by the NCLT with regard to the Application cannot be faulted with. We, however, observe that it is always open to a party to seek recourse of law as permissible with regard to protecting its right as per the provisions of law. The NCLT while rejecting the Application, has made the following observation:-

“the remedy available to the Resolution Professional is to file an application before the Competent Court for the specific performance of contract”

Having gone through the observation made by the NCLT, we see no reason to entertain the Appeal. The Appellant may take recourse to the law as observed by the NCLT or take any other remedy permissible in law.

We find no merits in the Appeal. The Appeal is dismissed.

[Justice Ashok Bhushan]
Chairperson

[Justice Jarat Kumar Jain]
Member (Judicial)

[Dr. Alok Srivastava]
Member (Technical)

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