

Company Appeal (AT) (Insolvency) No. 528 of 2018

...Appellant

Versus

...Respondent

Present:

**For Appellant : Ms. Ranjana Roy Gawai and Ms. Vasudha Sen,
Advocates**

For Respondent : **Mr. Debashish Bharuka, Mr. Abinash Agarwal and
Mr. Amit Meharia, Advocates**

ORDER

24.01.2019 This appeal has been preferred by the appellant against the order dated 9th July, 2018 in CA(IB) 415/KB/2018 and CA (IB) No. 315/KB/2018, which reads as under :

“ORDER

Ld. Liquidator with her counsel as well as Ld.

Counsel for the applicants is present.

CA(IB) No. 415/KB/2018 is filed by the Ld. Liquidator seeking leave to contest the proceedings pending before the Hon'ble High Court of Judicature at Bombay u/s. 34 pf the Arbitration and Conciliation Act, 1996 read with Section 33 (5) of the Insolvency and

Bankruptcy Code, 2016 before the aforesaid Hon'ble Court.

Considering prayer (a) in the application leave is hereby granted.

CA(IB) No. 415/kb/2018 is disposed of accordingly.

CA(IB) No. 417/KB/2018 also filed by the Ld. Liquidator to grant leave so as to contest the impugned order dated 09/07/2013 passed by the Hon'ble Division Bench of the High Court of Judicature at Bombay before the Hon'ble Supreme Court. The application has already been filed before the Supreme Court being S.L.P. (Civil) No. 29690 of 2013 (now Civil Appeal No. 014132-014134 of 2015). Hence, Leave is hereby granted to contest the case as prayed for.

CA(IB) No. 417/KB/2018 is disposed of accordingly.

CA(IB) No. 396/KB /2018

Ld. Counsel appearing for the petitioner in this CA sought time to file rejoinder. Time is granted. To be filed within 2 weeks by serving a copy to the opposite party.

*List it for further consideration on **03/10/2018**.*

CA(IB) No. 315/KB/2018

Ld. Counsel appearing for the applicant in this CA submits that rejoinder has been filed at the Registry.

However, Ld. Liquidator has not received copy of rejoinder. Directed to serve a copy of rejoinder to the Ld. Liquidator.

*List it for hearing on **03/10/2018.***

2. From the order passed in CA (IB) No. 415/KB/2018, we find liquidator has been merely granted relief to contest the pending appeal under Arbitration and Conciliation Act, 1996. Insofar as CA No. 315/KB/2018 is concerned, appellant herein filed a rejoinder in the Registry and a copy of the same has been directed to served on the liquidator and in fact this is a frivolous complaint. Learned counsel for the appellant submits that the claim of the appellant has been rejected by the liquidator against which the appeal is pending before the Adjudicating Authority and no final order has been passed by the Adjudicating Authority. As the said order is not in challenge before us, we find no merit in this appeal, it is accordingly dismissed. There shall be no order as to costs.

[Justice S.J. Mukhopadhaya]
Chairperson

[Justice Bansi Lal Bhat]
Member (Judicial)

/ns/uk/