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\* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ O.M.P.(I) (COMM.) 30/2022 & I.A. 4357/2022

PHOENIX ARC PVT. LTD. .... Petitioner  
Through: Mr. Manik Dogra, Mr. Manmeet  
Singh, Mr. Ankur Khandelwal, Mr.  
Manav Sharma & Mr. Vishal  
Bijlani, Advocates.

versus

PROVIEW INFRASTRUCTURE  
PVT LTD & ORS. .... Respondents  
Through: Mr. Nakul Sachdeva, Mr.  
Aakarshan Sahay & Ms. Aayushi  
Mishra, Advocates for R-1 & 2.  
Mr. Shohit Chaudhary, Advocate  
for R-3 & 4. [M:-9999091964].  
Ms. Gurkamal Hora Arora,  
Advocate for R-9.

**CORAM:**

**HON'BLE MR. JUSTICE PRATEEK JALAN**

**ORDER**

% **21.12.2022**

**I.A. 19694/2022(Application on behalf of the respondent Nos. 1 and 2 seeking modification of the order dated 28.01.2022 quo respondent Nos. 1 and 2)**

1. The respondent Nos. 1 and 2, represented by the Resolution Professional ["RP"] seek modification of the order dated 28.01.2022 passed by this Court on the ground that they there are undergoing Corporate Insolvency Resolution Process ["CIRP"] under the Insolvency and Bankruptcy Code, 2016 ["IBC"] and a moratorium has been placed

with regard to proceedings against them.

2. By the order dated 28.01.2022, the Court passed the following *ad interim* order:-

*“11. In the meanwhile, the respondents are restrained from alienating, encumbering, transferring, selling or disposing of any of their immovable assets or their investments. The respondents shall also ensure that the sale proceeds or receipts in respect of the properties sold earlier are deposited in the designated escrow account maintained with the IndusInd Bank Limited till the next date of hearing.”*

3. It is the contention of the RP that he is now in the process of inviting proposed resolution plans in respect of respondent Nos. 1 and 2. He submits that the order of injunction will come in the way of maximising the value of the assets of the corporate debtor. However, it is also the admitted position that any resolution plan would require the approval of the committee of creditors, in which the petitioner is the only secured creditor. Practically, therefore, any proposed resolution plan can be successful, only if the petitioner also approves it.

4. Learned counsel for the petitioner and the respondent Nos. 1 and 2 agree that it may be clarified that the order dated 28.01.2022 will not come in the way of the RP inviting resolution plans, and the resolution applicants making their proposals for dealing with the properties in question. If any resolution plan has the approval of the petitioner and is sanctioned by the National Company Law Tribunal, the applicants can then approach this Court for modification of the order dated 28.01.2022 to that extent.

5. The application is disposed of with this clarification.

**I.A. 19673/2022(Application on behalf of the respondent Nos. 1 and 2 seeking stay of proceedings quo respondent Nos. 1 and 2)**

1. In view of the moratorium as against the respondent Nos. 1 and 2, Mr. Manik Dogra, learned counsel for the petitioner, accepts that the present proceedings cannot be continued against them until the moratorium is lifted in accordance with the IBC.

2. The application is disposed of.

**O.M.P.(I) (COMM.) 30/2022**

Rejoinder be filed within four weeks from today.

List on 06.04.2023.

**PRATEEK JALAN, J**

**DECEMBER 21, 2022**

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