



INDIAN INSTITUTE OF INSOLVENCY PROFESSIONALS OF ICAI

(Company formed by ICAI under Section 8 of the Companies Act 2013)

IBC Case Law Capsule

Number 236

(August 11, 2025)

Sincere Securities Pvt. Ltd. & Ors. vs. Chandrakant Khemka & Ors.

Civil Appeal No. 12812 of 2024

Date of Supreme Court Judgement, 05 August 2025

Facts of the Case: -

The present Civil Appeal No. 12812 of 2024, u/s 62 of the Insolvency and Bankruptcy Code, 2016 (IBC), challenges the order dated 12.11.2024 of the National Company Law Appellate Tribunal (NCLAT), which allowed Company Appeal (AT) (Insolvency) No. 1064 of 2023 filed by Chandrakant Khemka (hereinafter referred as 'Respondent No. 1') and set aside the order dated 07.08.2023 of the National Company Law Tribunal (NCLT), Kolkata Bench in CP(IB) No. 1377/KB/2020, whereby possession of the disputed property was directed to be delivered to the appellants.

On 13.02.2019, Nandini Impex Pvt. Ltd. (later a Corporate Debtor under IBC), represented by Respondent No. 1, executed a Memorandum of Understanding (MoU) with Noble Dealcom Pvt. Ltd. along with Jodhpur Properties and Finance Pvt. Ltd. (Appellant Nos. 2 and 3) for financial assistance of ₹3 crores, secured by depositing title deeds of the rear portion of the ground floor of White House, Rani Jhansi Road, New Delhi. Another MoU dated 15.02.2019 was executed with Sincere Securities Pvt. Ltd. (Appellant No. 1) for a ₹3 crore loan, secured by title deeds of the front portion. Upon default, conveyance deeds dated 27.02.2020 transferred ownership of both portions to the appellants, but simultaneous Leave and License Agreements allowed Nandini Impex to retain possession at ₹6 lakhs monthly rent per portion. Following default in rent payments, the appellants terminated the agreements on 08.05.2020 and filed eviction suits. Meanwhile, UCO Bank (Respondent No. 3) filed a Section 7 IBC petition, admitted on 20.09.2022, initiating the Corporate Insolvency Resolution Process (CIRP), with the Respondent No. 3 as sole member of the Committee of Creditors (CoC). The appellants, as operational creditors, filed claims which were fully admitted.

On 06.04.2023, after the Resolution Professional's report, the CoC decided that the property was unnecessary and financially burdensome and requested its return to the appellants. Respondent No. 1 objected, leading to interlocutory applications before the NCLT, which on 07.08.2023 directed return of possession. On appeal, the NCLAT held that Section 14(1)(d) IBC barred recovery of property from the CD during CIRP and remanded the matter. The Supreme Court recorded that both the Resolution Professional including the new RP, and the CoC supported returning the property due to high rental costs and limited operations, while Respondent No. 1 alone opposed it without offering to bear the cost.



INDIAN INSTITUTE OF INSOLVENCY PROFESSIONALS OF ICAI

(Company formed by ICAI under Section 8 of the Companies Act 2013)



Supreme Court's Observations:

The Supreme Court emphasized that the “commercial wisdom” of the Committee of Creditors (CoC) holds paramount status during the (CIRP) and is non-justiciable. Referring to *K. Sashidhar v. Indian Overseas Bank* (2019) 12 SCC 150, it reiterated that once the CoC, after due deliberation, takes a collective business decision, the AA cannot question or evaluate its justness. The IBC framework was designed for a time-bound resolution process, replacing the earlier regime that allowed indefinite protection to debtors, and to accord primacy to informed, expert-backed decisions of financial creditors.

In this case, UCO Bank, the sole CoC member, decided that retaining the property was not in the CIRP's interest due to its high rental cost and the CD's limited operations. Both the then RP and the new RP, supported this view, with the latter confirming by affidavit that retention was neither feasible nor necessary. The Apex Court noted that this was not a unilateral recovery attempt by the owner barred under Section 14(1)(d) IBC, but a decision by the CoC and the RP to return the property to avoid substantial financial burden.

All stakeholders except Respondent No. 1, agreed to the return. His claim that rent would be secured under IBC provisions was found untenable, especially as he was unwilling to bear the costs. The Court held that his opposition appeared intended to stall the process for reasons unconnected to the CIRP, and there was no justification for the NCLAT's remand order. The CoC's decision, rooted in its commercial wisdom, was entitled to full respect and required immediate implementation.

Order/Judgement: The Supreme Court set aside the NCLAT's order dated 12.11.2024 and restored the NCLT's order dated 07.08.2023 directing return of possession to the appellants. The RP was directed to implement the order expeditiously.

Case Review: *Appeal Allowed.*