

**NATIONAL COMPANY LAW APPELLATE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI**

Company Appeal (AT) (Insolvency) No.495 of 2023

IN THE MATTER OF:

Koinonia Coffee Pvt. Ltd.

...Appellant

Versus

Vijay Kumar V Iyer

RP of Future Retail Ltd. & Ors.

...Respondents

Present:

**For Appellant: Mr. Amar Dave and Ms. Aakashi Lodha,
Advocates.**

**For Respondents: Mr. Vijayant Paliwal and Mr. Nikhil Mathur,
Advocates for RP.**

**Mr. Ritin Rai, Sr. Advocate with Mr. Abhijeet
Sinha, Ms. Petrushka Dasgupta, Ms. Pallavi
Pratap, Ms Prachi Pratap, Dr. Prashant Pratap, Mr.
Akshay Singh and Ms. Avadhi Jain, Advocates for
R-2 & 4.**

Mr. Varun Kalra, Advocate for R-5.

ORDER

21.04.2023: Heard learned counsel for the Appellant. This Appeal has been filed against the order dated 29.03.2022 passed by the Adjudicating Authority in I.A. No. 1165 of 2023. The Appellant has earlier filed an application I.A. No. 3439 of 2022, where certain prayers have been made including prayer to direct the Resolution Professional to take possession of the Foodhall business of the Corporate Debtor and run the business. In the said application orders were reserved by the Adjudicating Authority on 22.02.2023. Subsequently, I.A. no. 1165 of 2023 has been filed by the Appellant in which following prayers have been made:

Cont'd.../

“PRAYERS

Considering all that is stated hereinabove, the Applicant respectfully prays that:

- a. That this Hon'ble Tribunal be pleased to urgently pronounce the Orders in the Interlocutory Application bearing No. 3439 of 2022 i.e. on or before 1st April, 2023.*
- b. That in the interim, in the event if it is not feasible for this Hon'ble Tribunal to pronounce the Order in 3439 of 2022 on or before 1st April, 2023 then this Hon'ble Tribunal be pleased to restrain the Respondent No. 5 to take the possession of the said Premises until this Hon'ble Tribunal pronounces the Order in IA 3439 of 2022.*
- c. For ad-interim reliefs in terms of prayer clause (b);*
- d. That this Hon'ble Tribunal be pleased to pass such other and further orders as this Hon'ble Tribunal may deem fit and appropriate in the facts and circumstances of the present case.*
- e. For costs.*
- f. For such other reliefs as this Hon'ble Court deems fit, in the facts of the present matter.”*

2. The Adjudicating Authority heard the parties and reserved the orders in I.A. No. 1165/2023 by the impugned order.

3. Learned counsel or the Appellant submits that since the Adjudicating Authority has not yet delivered its order in I.A. No. 3439 of 2022, this Court may pass orders for maintaining status quo. In I.A. No. 1165 of 2023, the Appellant has prayed for direction to restrain the Respondent No.5 to take the possession of the said remises until the Tribunal pronounces the order. Learned counsel for the Appellant submits that in view of the orders not pronounced, precipitative actions are being taken, which may harm the Corporate Debtor.

4. The orders which are sought to be challenged in this Appeal are orders reserved in I.A. No. 1165 of 2023. We have already noticed the prayers made in the I.A. In so far as restraining actions of Respondent No.5 till the orders are pronounced, Respondent No.5 is an individual person - one Salman Khan. We see no reason to grant any such injunction in this Appeal challenging the order dated 29.03.2023. The Adjudicating Authority having reserved the orders, we hope and expect that the said orders shall be pronounced at an early date. With these observations, we dismissed the Appeal.

5. Learned counsel for the Appellant submits that under Section 14(1)(d) there is moratorium and any property in the occupation or possession of the Corporate Debtor could have been interfered with. We are of the view that these are the issues which need to be considered by the Adjudicating Authority while delivering orders on the application.

6. Learned counsel for the Appellant submits that the assets of the Corporate Debtor are fraudulently being kept away. We make it clear that we are not expressing any opinion on the merits of the case.

**[Justice Ashok Bhushan]
Chairperson**

**[Barun Mitra]
Member (Technical)**

Archana/nn

