

ITEM NO.9 Court 6 (Video Conferencing) SECTION XVII

SUPREME COURT OF INDIA  
RECORD OF PROCEEDINGS

Civil Appeal No(s).4237/2020

PROMILA TANEJA

Appellant(s)

VERSUS

SURENDRI DESIGN PVT. LTD.

Respondent(s)

(WITH I.R. )

Date : 28-01-2021 This appeal was called on for hearing today.

CORAM :

HON'BLE DR. JUSTICE D.Y. CHANDRACHUD

HON'BLE MS. JUSTICE INDIRA BANERJEE

HON'BLE MR. JUSTICE SANJIV KHANNA

For Appellant(s)

Ms. Anjoo Jain, Adv.

Mr. Hitesh Sachaar, Adv.

Ms. Prachie Jain, Adv.

Mr. Anuj Bhandari, AOR

For Respondent(s)

UPON hearing the counsel the Court made the following  
ORDER

- 1 Ms Anjoo Jain, learned counsel appearing on behalf of the appellant, submits that there are two conflicting decisions of the National Company Law Appellate Tribunal on the issue as to whether the non-payment of rent would qualify as an operational debt within the meaning of Section 5(21) of the Insolvency and Bankruptcy Code 2016:

**M Ravindranath Reddy v Mr G Kishan & Ors, Company Appeal (AT) (Insolvency)**

No 331 of 2019 decided on 17 January 2020; and

(ii) **Anup Sushil Dubey v National Agriculture Co-operative Marketing Federation of India Limited & Ors**, Company Appeal (AT)(Insolvency) No 229 of 2020 decided on 7 October 2020.

2 In the present case, it has been submitted that the demand was both in respect of the arrears of rent as well as on account of damages for breach of the lock-in period.

3 Issue notice, returnable after twelve weeks.

4 Dasti, in addition, is permitted.

5 Counter affidavit shall be filed within four weeks from the date of service.

6 Rejoinder, if any, be filed within four weeks thereafter.

(SANJAY KUMAR-I)  
AR-CUM-PS

(SAROJ KUMARI GAUR)  
COURT MASTER