



UPLOADED ON 17.09.2026

IN THE COURT OF PRINCIPAL COMMERCIAL COURT,
EGMORE, CHENNAI

Present: Thiru. S.GANAPATHISAMY, B.A.B.L.,
Principal Judge

Dated this 17th day of September 2026, Thursday

I.A.No. 3 and 4 of 2025 in C.O.S. No. 938 / 2022

M/s. PSL Limited,
PSL Towers, Plot No.615, Makwana Road,
Marol, Antheri (East),
Mumbai – 400 059.

Also at Post Box No.25, Kachigham,
Daman – 396 210.

Now Having office at
1806, Block B, Navratna Corporate Park,
Ambli Bopal Road,
Ahmedabad – 380 058.

... Petitioner / Defendant in both Petitions

-Versus-

M/s. Bonfiglioli Transmissions (Pvt) Limited,
 Plot No. AC7-AC11, SIDCO Industrial Estate,
 Thirumudivakkam, Chennai – 600 044.
 Represented by its Chief Financial Officer,
 Mr.G.A.Balaji.

...Respondent/Plaintiff in both petitions.

This Petition coming on this day for final hearing on 15.07.2026 before me in the presence of M/s. R.Ramasubramaniam Raja, A.S.Arvind and D.Thanigaivel learned counsels for petitioner/defendant in both petitions ; of M/s. Jidesh Kumar MD, Smita Paliwal, Navod Prasannan, Vijay R Sekar, Akalya Ravichandran, G.Lakshmi Prathista Reddy, RV Che Guvera, Dhakshin Kumar and Rahul Balakrishnan, learned counsels for the respondent/plaintiff in both petitions and upon perusing the documents and upon hearing the argument of petitioner/defendant and having stood over for consideration till this day, this court today delivers the following:

ORDER

The Petitioner/Defendant has come forward with these two applications under Order IX Rule 13 under Section 151 of Code of Civil Procedure to set aside the ex parte decree dated 01.07.2025 and dismiss the suit as abated or barred by law in the light of order passed by NCLT in IA No. 249 (AHM) of 2025 dated 16.05.2025.

Averments of the affidavit filed in support of these applications are shortly as follows:-

1. The Defendant is now represented by the new management who has purchased the Corporate Debtor, namely the defendant Company as a going concern during liquidation process before NCLT, Ahmadabad. During the pendency of the instant suit, corporate Insolvency resolution process was initiated against the Defendant vide order dated 15.02.2019 of NCLT Ahmadabad in CP (IB) No.37 of 2017. The defendant went into liquidation vide order dated 11.09.2020 with an appointment of a liquidator. Subsequent to the CIRP order, the defendant went into liquidation. It should have been represented by Resolution Professional and subsequently by the liquidator and it should have been informed the Court about the status of Company and moratorium for the respective stages.

The Liquidator published an e-action notice on 10.07.2024 for sale of defendant company. Consortium comprising of Katariya Infraproject Private Limited and Rajradhe Finance Limited purchased the defendant company for a total consideration of Rs. 107 crores. A letter of intent was issued on the 07.08.2024 in favor of consortium and a sale certificate dated 01.01.2025 was also issued. In order to revive, manage and develop the business of the petitioner as a going concern, the consortium filed an application in IA No.249 of 2025 before NCLT, Ahmadabad. The NCLT directed that all past liabilities, claims or demands against Defendant whether admitted or not, including those by Creditors, Government Authorities or other entities stand extinguished upon issuance of sale certificate dated 01.01.2025. It has

further directed that no Government authority or statutory body or person shall initiate or continue any proceedings, investigations or coercion actions against defendant for any pre share liabilities or obligations. The NCLT has also directed that all pending litigations, arbitrations or disputes involving the defendant as of date of sale certificate stand abated and no fresh claims or proceedings can be initiated against corporate debtor.

Therefore, all claims of petitioner including all pending litigation prior to issuance of sale certificate dated 01.01.2025 shall stand extinguished and abated respectively. This Court has passed a decree on 01.07.2025 directing the defendant to pay the plaintiff a sum of Rs. 48,98,900/- with interest at the rate of 12% per annum. It seems that the plaintiff submitted that the CIRP proceedings were dismissed and the defendant continued to function in a regular manner. The above representation is a false representation and it is a clear case of misrepresentation and fraud. Consortium was not aware of pendency of this suit. The defendant was under impression that all legal proceedings were closed by virtue of order of NCLT in IA No. 249 of 2025. The new management came to know about the decree recently. The petitioner / defendant was shocked to learn that the plaintiff filed a claim before liquidator as operational creditor for an amount of Rs. 1,06,28,837/- and the liquidator had admitted an amount of Rs. 44,47,495/-. The plaintiff was aware of fact that the defendant was under liquidation and was represented by liquidator. Therefore, the suit itself is not maintainable before this Court. Our Hon'ble Supreme Court in M/s. Ghanashyam Mishra and Sons Private Limited case held that on date of approval of

Resolution Plan by adjudicating authority, all such claims which are not part of Resolution Plan shall stand extinguished. Therefore, the defendant is not liable for the plaintiff. This petition has been filed within 30 days from the date of Ex parte decree. The jurisdiction of Civil Court is barred by section 213 of Insolvency and Bankruptcy Code. This suit stands abated and should be dismissed.

Averments of Common Counter affidavit filed by the Respondent /Plaintiff are shortly as follows:-

2. The Respondent was originally incorporated as a private limited company and it has been recently converted into a Public Limited company from 16.09.2025. The defendant has filed these applications relying on order dated 16.05.2025 passed by NCLT in IA No.249 of 2025. The defendant has failed to disclose the fact that the consortium has preferred an appeal against the order dated 16.05.2025 and said appeal was numbered as Company Appeal No.872 of 2025 on the file of NCLAT, New Delhi. The NCLAT by its order dated 06.10.2025 set aside the order of NCLT dated 16.05.2025 observing that order of NCLT is not a speaking or recent order because it does not indicate that consideration for the reliefs and the consortium was given liberty to file fresh application giving details of reliefs and a fresh order be passed by the NCLT without being influenced by the order of NCLAT.

The Hon'ble NCLT passed on order on 16.05.2025. The consortium filed appeal and it was numbered on the 12.06.2025. The defendant filed these applications on 25.07.2025 before this Court by suppressing the appeal pending before NCLAT. The deponent of affidavit is not properly authorized to file affidavit. Even though the defendant was undergoing liquidation, there is no bar in continuing

the legal proceedings initiated prior to defendant's admission into CIRP. The suit was instituted in 2016 itself. It is false to state that liquidation aspect was not brought to the attention of this Court. In fact, on 29.04.2025 this Court directed the plaintiff to issue notice to the liquidator through Court and Post and the plaintiff has complied with the said direction. But the liquidator failed to appear before this Court. The petitions are liable to be dismissed.

3. The point for consideration in these applications is whether the ex parte decree is liable to be set aside and the suit shall be dismissed as abated?

Both side heard.

4. The plaintiff has filed the main suit for the relief of recovery of suit claim of Rs.56,31,159/- together with interest at the rate of 12% per annum on the principal amount of Rs.48,98,900/- as against the defendants. Corporate Insolvency Resolution Process was initiated against the defendant before NCLT, Ahmadabad in CP (IB) No.37 of 2017. The defendant went in liquidation vide Order dated 11.09.2020 and a Liquidator was appointed. In the auction conducted by the liquidator, consortium comprising of Katariya Infraproject Private Limited and Rajradhe Finance Limited purchased the defendant as ongoing concern for the total consideration of Rs.107 Crores and a letter of intent and sale certificate were issued on 07.08.2024 and 01.01.2025 respectively. The plaintiff had also filed a claim before liquidator as an operational creditor for an amount of Rs.1,06,28,837/-. The

liquidator had admitted an amount of Rs.44,47,495/-. A Resolution Professional was appointed and subsequently liquidator was appointed. The above facts are admitted facts between the parties to the proceedings.

5. The defendant filed an application in I.A.No.249 of 2025 before NCLT seeking to extinguish all the liabilities of the defendant. The NCLT granted relief on 16.05.2025. The above facts are also admitted facts between the parties to the proceedings.

6. The learned counsel for the respondent/plaintiff submitted that the order of NCLT dated 16.05.2025 was set aside by NCLAT on 06.10.2025 in Company Appeal (AT) No.872 of 2025 and the defendant having suppressed the above order has filed these applications to mislead the Court. The defendant has not denied the reversal of the NCLT order dated 16.05.2025 by NCLAT by its order dated 06.10.2025. Therefore, the order passed by NCLT extinguishing the liabilities of the defendant stood revoked.

7. Now we have to see when a resolution plan has been approved by the Adjudicating Authority and after a Company has gone in liquidation, whether a suit against such company can be continued. The learned counsel for the defendant cited a decision of our Hon'ble Supreme Court rendered in Electrosteel Steel Ltd Vs Ispat Carrier Pvt Ltd dated 21.04.2025. In the above decision, after approval of a resolution plan by the Adjudicating Authority, Execution Petition came to be filed

for execution of Arbitral award against a company and the Commercial Court while dealing with Execution Petition dismissed the application filed by the judgment debtor therein that the Arbitral Award was not challenged.

Our Hon'ble Supreme Court has held that once a Resolution Plan is duly approved by Adjudicating Authority under Section 31(1) of IBC, the claim as provided in the Resolution Plan stands frozen and will be binding on the corporate debtor and its employees, members, creditors including the Government Authorities and on the date of approval of Resolution Plan by the Adjudicating Authority, all such claims which are not part of resolution plan shall stand extinguished and no person will be entitled to initiate or continue any proceedings in respect to a claim which is not part of resolution plan.

8. The plaintiff herein has already approached the liquidator and outstanding due was arrived and decided by the liquidator. The resolution plan has included the claim of plaintiff also. Therefore, the plaintiff has to work out his remedy before NCLT. As per the judgment of our Hon'ble Supreme Court, once a resolution plan is approved by the Adjudicating Authority, all claims against corporate debtor stand discontinued. The Liquidator will issue public notice inviting corporate debtors to file their claims against corporate debtor and then he decides the claims. If any corporate creditor fails to file claims, it will lose its right of claiming amount before civil court.

Therefore the reason for non appearance of defendant in the suit is sufficient. Even though the NCLAT set aside the order of NCLT order, only after approval

Resolution plan, the defendant filed an application in I.A No.249 of 2025 before NCLT. Irrespective of order of NCLT, as the Resolution Plan was already approved, the claim before Civil Court cannot be continued.

In the result, I.A.No.4 of 2025 is allowed and ex parte decree dated 01.07.2025 is set aside. I.A.No.3 of 2025 is also allowed and the suit is dismissed as abated.

Dictated by me to the Steno-Typist, Transcribed and typed by him in the computer, corrected and pronounced by me in the open court, this 17th day of September 2026.

GANAPATHI
SAMY

Digitally signed
by GANAPATHI
SAMY
Date: 2026.09.17
17:49:33 +0530

Principal Judge
Principal Commercial Court
Egmore, Chennai.

Draft/ Fair Common Order in
I.A.No.3 & 4 of 2025
in
C.O.S.No. 938 /2022
Date: 17.09.2026

Principal Commercial Court,
Egmore, Chennai.