



Commercial Wisdom Over Procedural Rigidity: Supreme Court Clarifies Scope of Section 14(1)(d) in Returning Leased Property During CIRP

A Case Analysis of Sincere Securities Pvt. Ltd. and Ors Versus Chandrakant Khemka and Ors.

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Introduction

The Supreme Court in *Sincere Securities Pvt. Ltd. & Ors. V. Chandrakant Khemka & Ors.*¹ addressed a key question under the Insolvency and Bankruptcy Code (IBC): Whether Section 14(1)(d) of the IBC, which imposes a moratorium on recovery of property from a Corporate Debtor during the Corporate Insolvency Resolution Process (CIRP), prevents the Committee of Creditors (CoC) from deciding to return leased property when retaining the same is financially unviable. The Supreme Court held that the provision does not bar such voluntary return if the CoC, exercising its commercial wisdom, considers it in the interest of the CIRP. Further, it was also held that the commercial wisdom of the CoC must be given primacy during the CIRP.

Relevant Facts

In February 2019, Nandini Impex Pvt. Ltd. borrowed funds from the Appellants, securing repayment of loan by depositing title deeds for the front and rear portions of the ground floor of "White House", New Delhi. A year later, in February 2020, upon failure to repay the loan, conveyance deeds were executed in favour of the Appellants, duly transferring the ownership to the Appellants, however, Leave and License Agreement was also executed on the same day, whereby the possession of the Property remained with the Corporate Debtor at a monthly rent of Rs.6,00,000/-.

When the corporate debtor defaulted on rent payments, the Appellants terminated the Leave and License Agreement and initiated eviction proceedings to recover possession.

In the meantime, UCO Bank filed a Petition under Section 7 of the Code, which was admitted by the NCLT on 20.09.2022. UCO Bank became the sole member of the CoC. During the CoC, it was convened that there was no requirement of retaining the possession of the White House Property on account of huge rentals and various other factors, thereby resolving that the possession of the White House Property shall be handed over to the Appellants.

However, the suspended director, of the Corporate Debtor namely Chandrakant Khemka, objected to returning the property to the Appellants, invoking Section 14(1)(d) of the IBC, which observes it is barred to seek recovery of any property by an owner or lessor where such property is occupied by or in possession of the Corporate Debtor. In lieu of the same, the suspended director filed an Application before the NCLT. The NCLT directed the delivery of possession to the Appellants.

¹ *Sincere Securities Pvt. Ltd. & Ors. v. Chandrakant Khemka & Ors.*, MANU/SC/1021/2025



The Order passed by NCLT was challenged before the NCLAT, wherein the NCLAT set aside the NCLT's order, holding that Section 14(1)(d) barred such recovery during CIRP. It remanded that matter to the NCLT for reconsideration.

The Appellants then approached the Supreme Court, challenging the NCLAT's interpretation and seeking restoration of the Order passed by the NCLT.

Issues Involved

1. Does Section 14(1)(d) of the IBC prohibit the return of leased premises to the owner during CIRP if the CoC decides the asset is not required?
2. Can the CoC's commercial decision to surrender property be interfered with by adjudicating authorities?

Analysis and Application of Law to Facts

The Supreme Court relied on *K. Sashidhar v. Indian Overseas Bank*², affirming the primacy of the CoC's commercial wisdom. The Court noted:

1. Section 14(1)(d) prevents an owner from unilaterally recovering property in possession of the corporate debtor during CIRP.
2. This case was not a unilateral recovery attempt; the CoC itself, after deliberation, decided to return possession.
3. All stakeholders except the suspended director agreed that retaining the property was wasteful and financially burdensome.
4. The suspended director was unwilling to bear the cost, yet sought to prevent surrender without credible reasons.

The Court clarified that Section 14(1)(d) should not be read to compel the corporate debtor to retain unneeded leased property during CIRP, especially when it undermines value preservation.

The Hon'ble Supreme Court set aside the Order passed by the NCLAT and restored the Order passed by the NCLT observing that the CoC's informed decision must stand unless it is shown to be perverse or unlawful, neither of which applied to the facts of the present matter. Thus, it was directed that the possession of the Property shall be handed over to the Appellants.

Conclusion

The ruling reinforces two important principles: First, Commercial wisdom of the CoC is paramount and remains largely beyond judicial review, especially when it comes to decisions about asset retention during the CIRP. Second, Section 14(1)(d) of the IBC is not an absolute prohibition against returning leased assets. Where both the CoC and the Resolution Professional agree that surrendering the property serves the interests of the CIRP, the provision does not stand in the way. The judgement offers valuable clarity that moratorium protections cannot be misused by suspended management to obstruct cost-saving measures that have been endorsed by the CoC.

² *K. Sashidhar v. Indian Overseas Bank & Ors.*, MANU/SC/0189/2019: (2019) 12 SCC 150