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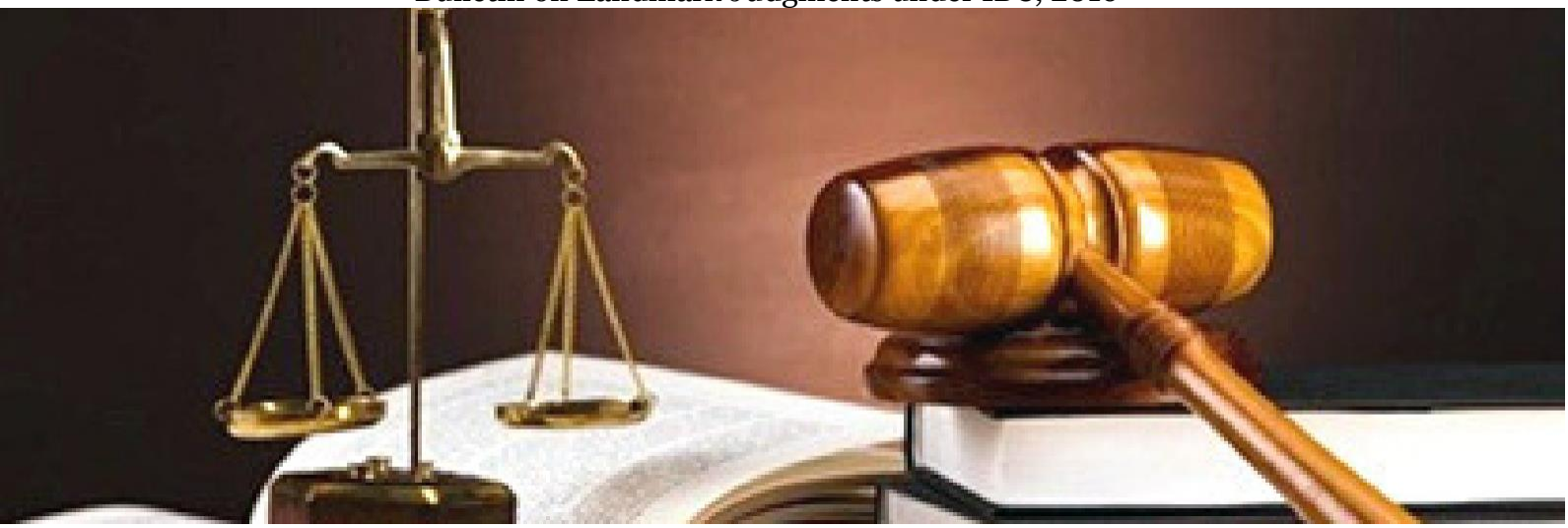
Bulletin on Landmark Judgments under IBC, 2016



Amira Pure Foods Private Limited Vs. Canara Bank & Ors

Brief Facts

The CD had proceedings against them pending in DRAT where the DRAT had appointed two receivers to take possession of the assets of the CD. The NCLT appointed IRP and initiated insolvency. The IRP moved the DRAT to take possession of the Assets from the receivers. The DRAT first refused the early hearing application. The CD moved the Delhi high court under writ jurisdiction which order the DRAT to hear the applications within a week. In response the DRAT in its order stated that the proceedings are stayed in accordance with Section 14 of the Code and hence the application will also remain pending till the moratorium period ends, resulting in possession staying with the Receivers.

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Decision

The appointment and continuation of the Court Commissioners with vesting of the assets of the CD in them, is preventing the IRP/RP from discharging his time bound duties and the interest of the CD is suffering. the DRAT was not powerless to modify its own order whereby the two court commissioners had been appointed to take over control of the assets of the petitioner/CD. The learned DRAT should have recalled its order so that the IRP/RP could take over the assets of the CD in the exercise of its mandate under the Insolvency & Bankruptcy Code, 2016. Thus, the order of DRAT was set aside. **[Para 6 & 7].**

Link of the Order

https://ibbi.gov.in//webadmin/pdf/order/2019/Jun/Delhi%20HC_2019-06-28%2018:00:51.pdf