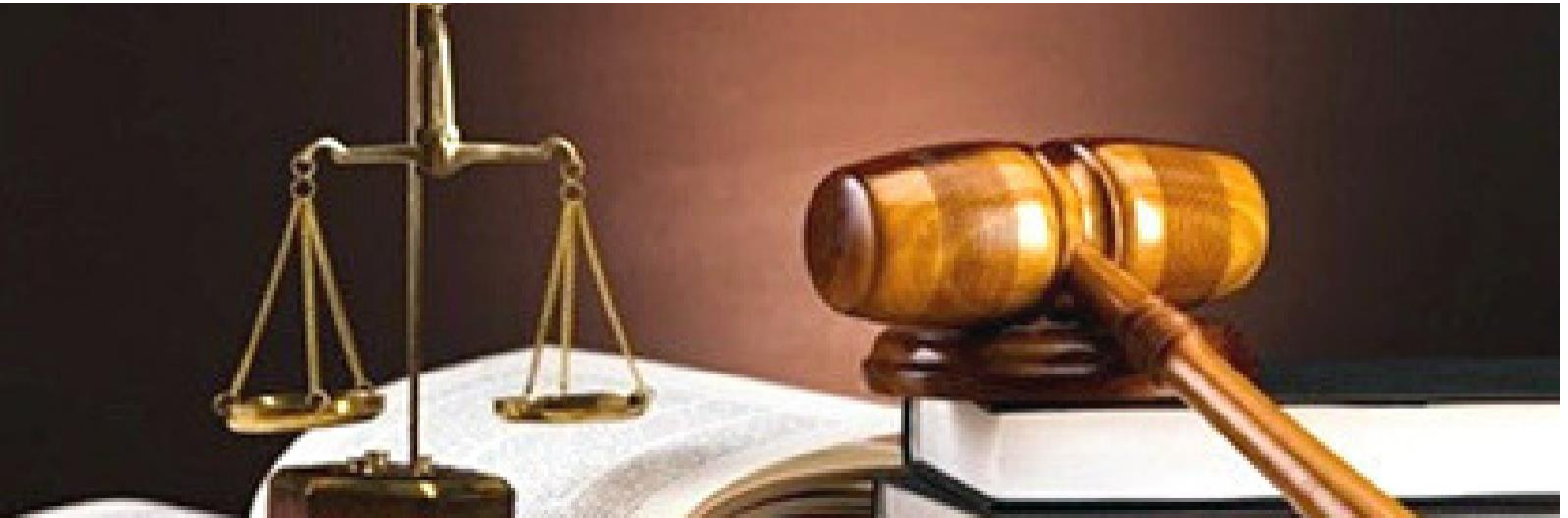


IBC DOSSIER

Bulletin on Landmark Judgments under IBC, 2016



Kamal K. Singh vs. Union of India and Ors.

Brief Facts

This insolvency petition, along with maintainability application was listed before NCLT on several occasions and preliminary orders and directions were issued. The parties filed documents and written arguments. On 20th August, 2019, both sides placed their arguments on merits. On conclusion of the arguments, the matter was reserved for orders. There is an endorsement or remark to that effect in the proceedings. However, it is alleged that the petitioner was shocked and surprised to have learnt that the IRP is seeking to take custody of the registered office and had informed that the board stands suspended in view of the moratorium declared by the NCLT. The IRP further informed that the NCLT had initiated CIRP of CD by passing the impugned order. The affairs as well as management of the CD would henceforth be operated by IRP.

Upon perusal of the impugned order, it was revealed that it was allegedly passed on 22nd October, 2019 and the second respondent to this petition was directed to forthwith transmit copies of the same to all parties concerned. The petitioner made inquiries with the sixth respondent and the office of its advocates on record before the NCLT.

However, it was confirmed by them that the impugned order has not been received. The order has not been uploaded on the website of the NCLT until 13th November, 2019 as the last order uploaded for the said insolvency petition relates to the hearing on 20th August, 2019, on which date, the arguments were concluded and the matter was reserved for orders by the concerned Bench.

Further it was found out that the matter had not been listed for pronouncement on the aforementioned date. The order was later uploaded via additional cause list having only one item. Hence the present appeal.

Decision

- a.** The NCLT had not followed the Rules given in the NCLT Rules for the publication and communication of pronouncement. Rule 150, 151, 152 make it clear that pronouncement must be published as soon as possible with a maximum waiting of 30 days. **[Para 77 & 88]**
- b.** The directions to reform tribunals so as to make them more transparent and litigant friendly given by the Supreme Court in the case of R.K. Jain vs Union of India AIR 1993 SC 1769. The Mumbai bench was directed to appoint president and improve its compliance with the R.K. Jain judgement. **[Para 99]**
- c.** The impugned order was set aside and a writ off certiorari was issued. **[Para 101]**

Link of the Order

<https://ibbi.gov.in/uploads/order/29204001b50bdf67bbccb260fb053ee3.pdf>



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