

**THE NATIONAL COMPANY LAW TRIBUNAL  
MUMBAI BENCH-I**

**IA 1831/2024 IA 4971/2024 IA23/2025 IA 1146/2025**

Under Sections 60(5) of the Insolvency and Bankruptcy  
Code, 2016 and Rule 11 of NCLT Rules, 2016

**Sterling Biotech Limited**

**...Applicant**

**Dhiren Shah  
Resolution Professional of Sterling Healthcare  
Limited**

**...Respondent**

In the matter of

**COMPANY PETITION NO. 370 OF 2023**

L&T Finance Limited

**...Petitioner**

V/s

Sterling Healthcare Ltd. Through its Resolution  
Professional, Mr. Dhiren Shantilal Shah

**...Respondent**

***Order delivered on: 31.10.2025***

***Coram:***

**Shri Prabhat Kumar**  
Hon'ble Member (Technical)

**Shri Sushil Mahadeorao Kochey**  
Hon'ble Member (Judicial)

*Appearances:*

For the Applicant : Sr. Adv. Mustafa Doctor

For the Respondent : Sr. Adv. Gaurav Joshi

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**ORDER**

1. This Application **IA 1831/2024** was filed on 2.4.2024 by **Sterling Biotech Limited** (“SBL”) under Section 60(5) of the Insolvency and Bankruptcy Code, 2016 (“Code”) read with Rule 11 of the NCLT Rules, 2016 in the Corporate Insolvency Resolution Process (“CIRP”) of Sterling Healthcare Limited (“Corporate Debtor/SHL”), seeking following reliefs:-

- a) *Pass an order directing the Resolution Professional of Sterling Healthcare Ltd. to handover the possession of plot of land bearing GAT No. 396 admeasuring 2H 10.4 Rs situated at Village Urse, Maval District, Pune, Maharashtra*
- b) *Pass an order directing the Resolution Professional of Sterling Healthcare Ltd to pay the insolvency resolution costs amounting to the lease rent @ INR 5 lakhs per month plus GST along with interest of 15% p.a. from the date of the declaration of CIRP i.e. from 07.12.2023 till handover of possession of the said land;*
- c) *Pass such other orders that this Hon'ble Tribunal may deem fit.*

2. Another Application **IA 1146/2025** was filed on 1.3.2025 by **Sterling Biotech Limited** (“SBL”) under Section 60(5) of the

Insolvency and Bankruptcy Code, 2016, seeking following reliefs in relation to same property:-

- a) *This Hon'ble Tribunal be pleased to direct the Resolution Professional to exclude the land bearing GAT No. 396 admeasuring 2H 10.4 Rs situated at village Urse, Maval District, Pune, Maharashtra from the Asset Pool of the Corporate Debtor's Resolution Plan;*
- b) *This Hon'ble Tribunal be pleased to direct the Resolution Professional to handover a copy of the Resolution Plan of Sterling Healthcare Ltd. filed in IA (IBC)(Plan)/ 14/2025;*
- c) *This Hon'ble Tribunal be pleased to direct the Resolution Professional to make the Applicant herein a Party Respondent in IA (IBC)(Plan)/ 14/2025.*
- d) *Pending the hearing and final disposal of this Application this Hon'ble Tribunal be pleased to stay the Approval of the Resolution Plan and proceedings in IA (IBC)(Plan)/ 14/2025;*
- e) *Pending the hearing and final disposal of this Application this Hon'ble Tribunal be pleased direct the Respondent to not consider any Resolution Plan that includes the Applicant's Property being property bearing GAT No. 396 admeasuring 2H 10.4 Rs situated at village Urse, Maval District, Pune, Maharashtra, as an asset of the Corporate Debtor;*
- f) *Pending the hearing and final disposal of this Application this Hon'ble Tribunal be pleased to direct the Resolution Professional to inform the Successful Resolution Applicant about the Pending Litigation regarding the said Property*

*being GAT No. 396 admeasuring 2H 10.4 Rs situated at village Urse, Maval District, Pune, Maharashtra.*

*g) Interim/ad-interim reliefs in terms of prayer clause (d) (e) and (f);*

*h) Any other reliefs this Hon'ble Tribunal deem fit and proper in the interests of Justice;*

*i) For costs;*

3. These application(s) are filed Sterling Biotech Limited ("SBL"), seeking possession of plot of land bearing Gat No. 396 admeasuring 2H 10.4 R situated at Village Urse, Maval District, Pune, Maharashtra (hereinafter referred as "Pune land") along with CIRP costs and exclusion thereof from the assets of Corporate Debtor.
4. SBL and Sterling Healthcare Limited ("SHL" or "Corporate Debtor"), which were earlier group companies, executed a registered Lease Deed dated 03.03.2008 as per which the Pune land was given on lease to the Corporate Debtor for a period of 29 years. As per the lease deed, the Corporate Debtor was required to pay Rs. 12 lakhs per annum, payable by equal half yearly payments on or before 15<sup>th</sup> September and 15<sup>th</sup> April in advance. The first payment was to be made on 15<sup>th</sup> March 2008. It is alleged that the Corporate Debtor defaulted in making the payments from as far back as 2008. It is also stated that, as per clause 2(i) of the Lease Deed, the lessee shall pay interest at the rate of 15% p.a. from the due date till the date of actual payment in case of delay in payment of rent.

5. Pursuant to the Lease Deed, SHL was in possession of the Leased Land and developed a world class facility for manufacturing life enhancing drugs, used for treatment of diseases like blood pressure and diabetes. SHL has also acquired numerous licences and certifications, on the factory situated at the Pune Land, from Indian and other global authorities to produce and export these medicines. There is a workforce of around 200 people.
  
6. On 11.06.2018, SBL was admitted into corporate insolvency resolution process. Subsequently, after the Resolution Professional of SBL took charge, it was observed by the Transaction Auditor that the Lease Deed was undervalued. Accordingly, the **Resolution Professional of SBL** filed an application in February 2019 (**MA No. 687 of 2019**) under Sections 45, 66 and 60(5) of the IBC seeking a declaration that the transaction between SBL and the Corporate Debtor was undervalued. This Tribunal vide order dated 05.03.2024 held that *“the applicant has placed on record comparable rentals of the lease property, which clearly demonstrates that the Corporate Debtor’s land has been leased to a third party, which is a related entity, at significantly lower consideration. Accordingly, this transaction falls within the scope of Undervalued transaction u/s 45 of the Code. Accordingly, we set aside the lease transaction and direct the Lessee to handover the peaceful and vacant possession of said land back to the Corporate Debtor within 30 days.”* This order was set aside by Hon’ble NCLAT vide its order dated 5.2.2025 on submission of RP of SHL that direction for possession has been given without hearing him stating that *“9. In view of the facts of the present case, we are of the view that in the ends of justice be served in*

*setting aside the order 05.03.2024 and reviving the M.A. 687 of 2019 before the Adjudicating Authority to be heard a fresh, to obviate the delay in disposal of the application. We permit the impleadment of the appellant in M.A. 687 of 2019 as one of the Respondent and grant three weeks' time to the appellant to file its reply to the M.A. 687 of 2019 before the Adjudicating Authority.”.* The said Application MA 687 of 2019 in C.P. (IB) 490 of 2018 was also heard together, however, since Hon'ble NCLAT has set aside the order completely and the said application has impugned other transactions as well, we shall pass an appropriate separately to deal with.

7. Parallely, on 07.02.2019, the Resolution Professional of SBL entered into negotiations with the Corporate Debtor whereby the lease rent of the Pune land was mutually enhanced to a fixed monthly rent of INR 5 lakhs plus GST, i.e. Rs. 60 lakhs annually (for the period beginning two years immediately prior to the Insolvency commencement date of SBL i.e. from 10.06.2016 till 11.06.2018 and thereafter), however, SBL and SHL never amended the Registered Lease Deed.
8. SHL is stated to have acted upon the amended terms of the lease deed as it paid the revised lease rent at the rate of Rs. 5 lakhs plus GST for several months after the correspondence of February 2019. Further, an email dated 10.05.2021 issued by Mr. Satish Shah, former Managing Director of the Corporate Debtor, has been placed on record wherein he had justified the imposition of Rs. 5 lakhs plus GST as lease rent and had also requested that the same be not increased further. SBL has further submitted that both the Corporate Debtor and SBL are stated to be ad-idem as regards the revised lease rent.

9. Another Application **IA 23/2025** was filed on 9.7.2024 by **SBL** under Section 60(5) of the IBC, 2016 read with Rule 11 of the NCLT Rules, 2016 against rejection of its claim towards pending lease rent at revised rate of Rs. 5,00,000/- per month and has sought following reliefs:-

*a) Pass an order setting aside the decision dated 18.04.2024 passed by the Resolution Professional of the Corporate Debtor in rejecting the claim of the Applicant and direct the Resolution Professional to accept the said claim.*

*b) Pass such other orders that this Hon'ble Tribunal may deem fit.*

10. On the other hand, An Application **IA 4971/2024** was filed on 26.06.2024 by Dhiren Shah, the **Resolution Professional of SHL** ("RP of SHL/Respondent in IA 1831 of 2024) under section 66 & 67 read with section 60 (5) of the Insolvency and Bankruptcy Code 2016 and Rule 11 of National Company Law Tribunal Rules 2016, seeking refund of increased lease rent recovered by SBL from SHL alleging payment of enhanced rent a related party transaction with the intent to defraud the creditors of the SHL and causing loss SHL leading to the initiation of its CIRP and has sought following reliefs therein :-

*a) Declare the transactions specified in paragraph no. 13 to 20 of this Application as fraudulent transactions, under Section 66 of the IBC, 2016.*

*b) Direct Respondent/s herein, jointly and severally, remit an amount of Rs. 84.96 Lakhs into the account of the Corporate Debtor as per Section 67 of the Code;*

*c) pass ad-interim or interim orders in terms of Clause A and B;*

11. Since, the Corporate Debtor continued to default on the lease rent, SBL issued notice of default dated 29.09.2022. In the meanwhile, SBL was sold as going concern in the Liquidation and this Tribunal approved an acquisition plan pursuant to such sale vide order dated 11.11.2022. SBL issued a termination notice dated 08.08.2023. However, the possession of Pune land continued with SHL on the date of commencement of CIRP on 7.12.2023 in case of SHL whereby the moratorium in terms of Section 14 of the Code came into force qua the affairs of SHL, and is still with SHL.
12. It is case of SBL that the notice of termination of the lease deed was issued much before the Corporate Debtor was admitted into corporate insolvency resolution process and moratorium was declared. As a result, SBL is entitled to the possession of the Pune land in as much as (a) the Pune land is neither the asset of the Corporate Debtor nor does it have any proprietary interest in the same, and (b) the Corporate Debtor is evidently in illegal occupation or possession of the land, and illegal occupation/ possession is not protected by the moratorium under Section 14(1)(d) of the IBC.
13. It is further stated by SBL that the Corporate Debtor has continued to be in default for non-payment of the lease rent even during the period of insolvency, therefore, even assuming for a moment that SBL is not entitled to possession due to the moratorium under Section 14, IBC, however, even otherwise due to non-payment of the current lease rent dues, SBL is entitled to take over the possession of the Pune land.

14. The parties have filed their submissions in IA 1831 of 2024, IA 1146 of 2025, IA 23 of 2025 and IA 4971 of 2024 in C.P. (IB) 370 of 2023. Since, the issue involved in all these application(s) relates to the lease of Pune Land and rentals accruing thereunder, we consider it appropriate to deal with all the issues in the following paras of this order in so far as the issues.

15. Heard the Learned Counsel and perused the material on record.

**IA 1831 of 2024 and IA 1146 of 2025**

16. It is undisputed fact that SHL was in possession of Pune Land on date of commencement of CIRP in its case on 7.12.2023 even though the lease agreement dated 3.3.2008 in respect of Pune Land came to be terminated on 8.8.2023 on account of default in payment of lease rent by SHL. Since, the moratorium u/s 14(1)(d) of the Code prohibits the recovery of any property by an owner or lessor where such property is occupied by or in the possession of the corporate debtor, SBL could not be granted possession thereof till the moratorium in terms of Section 14 of the Code is in force in case of SHL. Indeed, a resolution plan for SHL resolution has been filed before this Tribunal for its approval in terms of Section 31 of the Code and the same was also taken up along with these applications.

17. SBL's Counsel argued that they are not aware as to how and in what manner their property i.e. Pune Land is being dealt with in the proposed resolution plan pending approval of this Tribunal and they, being owner of such land, has a right to be heard if the proposed resolution plan deals with the said property in a manner which may cause prejudice to their rights.

Accordingly, this Tribunal directed RP of SHL to provide relevant extracts of the proposed Resolution Plan to SBL and gave SBL's counsel a liberty to advance their arguments thereafter in relation thereto.

18. The relevant extracts of the Resolution Plan before us dealing with the Pune Land are reproduced here in below :

**Clause 6.5.6 under Treatment of Stakeholder**

*“In consideration of the above payments to be made to the Operational Creditors and by virtue of Lite NCLT Approval Order, all the litigations/ proceedings by Operational Creditors (or any person claiming to be an operational creditor) before any court, tribunal, arbitration tribunal for non-payment of any dues/ contribution shall stand quashed on the NCLT Approval Date and except as provided herein, the Company shall no longer be required to make any payments to the Operational Creditors (or any person claiming to be an operational creditor) for the period prior to the NCLT Approval Date. It is clarified that the Operational Creditors shall not take any actions in respect of any such litigations/ proceedings after the NCLT Approval Date and shall withdraw all existing litigations/ proceedings, wherever pending. Further, the Operational Creditors shall not bring, institute or file any future claim, litigation or take any action against the Company or the Resolution Applicant before any court, tribunal or authority with respect to their claims prior to the NCLT Approval Date.*

*Any and all Claims made by or liabilities/ obligations owed or payable to any actual or potential operational creditor of*

*Corporate Debtor (including for any services, goods, losses or damages, interest, penalties, charges, Taxes or commissions), which relate to a period prior to the NCLT Approval Date, shall be deemed to be permanently extinguished and/or settled at NIL value with effect from the Transfer Date, by virtue of the NCLT Approval Order, irrespective of whether such Claims, liabilities or obligations are admitted or disputed, due or contingent, asserted or unasserted, crystallised or uncrystallised, present or future, known or unknown.”*

**Clause 7.6.2 under ‘Assets of Corporate Debtor/operations of Corporate Debtor’**

*“7.6.2. Since, the Lease Deed is a critical asset and substratum of the Corporate Debtor required for revival and resolution of the Corporate Debtor, therefore, on and after the Transfer Date, the Sterling Biotech Limited shall approve transfer (if any required on account of change of control for implementation of the Resolution Plan) of the Lease Deed in favour of the Corporate Debtor promptly upon an application by the Resolution Applicant/Company, at current rates as per the terms of the Lease Deed without insisting upon payment of any dues or penalties pertaining to period prior to the Effective Date, transfer charges/premiums in relation to change of control of the Corporate Debtor pursuant to implementation of the Resolution to the extent permissible under Applicable Law and irrespective of any defaults or non-compliances by the Company prior to the Effective Date.”*

**Clause 11.m under Relief & Concessions**

*“m) Direct Sterling Biotech Limited that with effect from the Transfer Date, the existing lease in favour of the Corporate Debtor shall not be terminated or cancelled on account of any non-compliance or breach of the terms of the lease by the Company, pertaining to the period prior to the Transfer Date, and (ii) that such leases shall continue in favour of the Corporate Debtor with the same lease rentals as agreed under the lease deeds/ agreement without demanding pending dues for the period prior to the Transfer Date.”*

19. It is noted that clause 6.5.6 seeks to extinguish the claims of SBL with respect to lease rentals upon settlement of its claim in terms of proposed resolution plan, we do not find any illegality therein, as the claims of all the creditors stands extinguished and settled in accordance with the proposals contained in the approved Resolution Plan and this issue is no longer res integra. This clause further contemplates extinguishment of suits pending against SHL in relation to eviction of SHL from the Pune land. Since the continuation of the lease is dealt within clause 7.6.2 and there is no mandatory provision requiring SBL to compulsorily continue with the lease after cessation of moratorium, we do not find this clause as prejudicing the interest of SBL requiring an order of exclusion.

20. It is noted that clause 7.6.2 requires SBL to approve transfer (if any required on account of change of control for implementation of the Resolution Plan) of the Lease Deed in favour of the Corporate Debtor promptly upon an application by

the Resolution Applicant/Company, at current rates as per the terms of the Lease Deed without insisting upon payment of any dues or penalties pertaining to period prior to the Effective Date, which is also not prejudicial to the rights of the SBL as the Resolution Applicant has protected the interest of SBL by proposing renewal/transfer at current rates. Though clause 11.m seeks concession from this Tribunal for continuance of the existing lease on same rent, however, this Tribunal is of the considered view that the parties to a contract are free to decide on continuance of contract between themselves after resolution of Corporate Debtor and this Tribunal can not bind a third person to conceded its rights in any manner if it does not agree to such concession in relation to period after the approval of resolution plan. Nonetheless, clause 7.6.2 enables SBL to mutually agree on current rates for continuation of lease rights.

21. Further, clause 6.3.2 (c) of the proposed Resolution Plan mentions about Pune Land and indicates willingness of the Resolution Applicant also to engage SBL for continuance or purchase of Pune land as well as its readiness to explore alternative options in case the lease is not continued for any reason.

**IA 4971 of 2024 and IA 23 of 2025**

22. Now coming to the issue concerning increased lease rent, it is noted that the Directors (powers suspended) of SHL in their reply to I.A. 4971 of 2024 have stated that SHL was 'compelled' to pay enhanced rent on the threat of eviction, and there was no agreement for increased rent. The relevant extract is reproduced below :

*"It is humbly submitted that the Applicant has failed to lay down the conduct adopted by the RP of SBL being Mr. Sundresh Bhatt, who had unilaterally proposed a modification to the terms of the Lease Deed, suggesting an increase in the lease rent payable by the Corporate Debtor. However, the proposed modification was neither mutually agreed upon nor formalized through any legally binding written agreement. The RP of SBL vide email dated 06.02.2019, unilaterally directed the Corporate Debtor to pay a revised rent. However, the Corporate Debtor vehemently protested against this unilateral decision made by the RP of SBL. Despite the Corporate Debtor's protests, these objections were disregarded. Under the imminent threat of eviction from the said property, the Corporate Debtor was compelled, under protest, to remit the augmented lease rent along with applicable taxes to Respondent No. 1. Therefore, without any legal knowledge, the Corporate Debtor, under protest, paid the revised amount as demanded by the RP of SBL".*

23. This assertion is fortified from the fact that RP of SBL could not have amended lease deed executed and registered. It is noted that Email dt. 07.02.2019 was sent by Mr. Satish Shah, who is not a party Respondent to the present Application and Respondent No. 2 to 4 are also not marked the copy in the Email dt. 06.02.2019 & 07.02.2019 exchanged between the RP of SBL and Mr. Satish Shah and their respective team members. Email dt. 07.02.2019 clearly acknowledged need to revise lease agreement and get the Registration done for the Regularization, however, it was not done. The RP of SBL seems to have got contended merely by raising monthly invoice for enhanced lease

rent and receipt of payment against those invoices on 18 occasions from 11.02.2019 till 31.05.2022. It is also pertinent to note that invoices placed on record by the Respondent Nos. 2, 3 & 4 bears the reference to E-mail of Mr. Satish Shah and RP of SBL as a proof for enhanced rent entitlement.

24. An email dated 13.2.2024 from SBL to RP of SHL clarifies the relation to non-registration of revised understanding stating that *“The revised lease rental was agreed between Sterling Healthcare Limited (SHL) and Resolution professional (RP) of Sterling Biotech Ltd SBL) as per Email Agreement dated 6th February 2019 between RP and SHL management. The revised lease amount was acknowledged by SHL and SHL have also acted on it and have paid revised lease rentals of ₹ 5,00,000/- per month for 18 months (from Jan-19 to June-20), and further have deposited taxes deducted at source (“TDS”) on the basis of revised lease agreement for 39 months for the period from January-19 to March-22. However, revised lease deed could not signed, as the committee of Creditors of SBL had approved the withdrawal of the Company from CIRP under section 12A of IBC in the meeting dated 7th March, 2019 (filed with NCLT on 8th March 2019 vide M.A 951/2019). Since the transaction was between related party the RP didn’t took further action for signing of revised lease deed. We, as the new management (post-acquisition under liquidation), noted that termination notice was already issued by the Liquidator and thereafter, have made submission requesting vacation of property by SHL.”* However, the parties can be bound legally only by a registered agreement and an offside communication, even if it was acted upon for some months, can not result into a binding agreement altering the rights of the parties, which were otherwise available to it in terms of legally

binding agreement. Nonetheless, if Respondent No. 2-4's reply is to be believed, there was lack of even free consent so as to bring into an existence a binding contract between SBL and SHL on basis of email communications.

25. The CIRP in case of SHL commenced on 07.12.2023, thus, the payment towards enhanced lease rental was never acknowledge as an obligation of SHL by its RP in absence of registered lease deed dt. 03.03.2008, having been superseded by legally binding document. Further, SHL is also making payments towards the Gram Panchayat Taxes based on the debit notes raised by SBL in terms of Lease Deed. Accordingly, we do not find any merit in the contention that the lease rent as agreed between one Director of SHL and RP of SBL on email communications binds SHL to pay the amounts as per revised rates, while the duly registered lease deed still remained in force. In our considered view that rights under the lease accrues in favor of SBL in terms of registered lease deed, which has not been superseded or modified by another registered document/deed as the lease deed dated 3<sup>rd</sup> March, 2008 had granted rights for a period of 29 years at the rent stated therein. The registered lease deed does not contain any clause enabling any party to re-negotiate the rent. Hence, as long as lease deed dated 3<sup>rd</sup> March, 2008 was not modified, SHL could not have been obligated to pay enhanced rent on basis of email communications. Accordingly, in our considered view, the claim of SBL is to be determined in accordance with lease deed dt. 03.03.2008 only. Accordingly, we do not find any infirmity in the email dated 18.4.2024 sent by RP of SHL rejecting the claim of SBL after determining it at NIL.

26. As regards impugning of payment of enhancement rent by the then management of SHL as fraudulent, it is to be noted that the said payment appears to have been made under threat of eviction looming over SHL on account of its failure to pay the lease rents in accordance with the registered lease deed, accordingly, even if some concession was extended to SBL by the then management to protect its occupation and uses of leased property for keeping its manufacturing installed thereat running, such concession cannot be held to be a fraudulent act of carrying the business of SHL so as to prejudice the interest of its Creditors. Accordingly, we are of the considered view that no order u/s 66 of the Code can be passed against Respondent Nos. 2 to 4 in IA 4971 OF 2024.

27. **In view of the aforesaid, we pass the following order in all the applications :**

- a. Possession of Pune Land can not be granted till the cessation of Moratorium u/s 14 of the Code, and for further period, the parties shall be at liberty to engage themselves in mutually agreeable proposition, however, (i) SBL shall not demand past dues having extinguished in terms of proposed resolution plan, (ii) SBL shall not unreasonably refuse the continuance of the lease period if it has otherwise ceased to be in force; and (iii) in case the parties do not reach a consensus for continuance of the lease if lease deed has ceased to be in force, SBL shall consider grant of reasonable period to SHL for relocation of its facilities as well as transfer of its licences, certifications & accreditation granted to it for export of its products and vacation of Pune Land after approval of the Plan; (iv) We refrain from adjudicating on the aspect of validity

THE NATIONAL COMPANY LAW TRIBUNAL  
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of lease and leave the same open to the parties to contest, if required, before appropriate forum after cessation of moratorium.

- b. The manner in which Pune Land is being dealt does call for its exclusion from the Resolution Process;
- c. There is no infirmity in the email dated 18.4.2024 sent by RP of SHL rejecting the claim of SBL.
- d. Since, the amounts paid by SHL have been appropriated by RP of SHL towards outstanding lease rent and no further amount has been paid, hence, no loss is caused to the Corporate Debtor requiring any contribution from the Suspended Directors of SHL as sought in IA 4971 of 2024.

28. In terms of above, IA 1831 of 2024, IA 1146 of 2025, IA 23 of 2025 and IA 4971 of 2024 are dismissed and disposed of.

Sd/-

**Prabhat Kumar**  
Member (Technical)

Sd/-

**Sushil Mahadeorao Kochey**  
Member (Judicial)