

**NATIONAL COMPANY LAW APPELLATE TRIBUNAL, NEW DELHI**

**Company Appeal (AT) (Insolvency) No. 573 of 2018**

**IN THE MATTER OF:**

**Mrs. Madhurima Mridul & Anr.**

**...Appellants**

**Vs.**

**Raj Infrastructures Development  
(India) Pvt. Ltd. & Ors.**

**...Respondents**

**Present: For Appellants: - Mr. Arun Kathpalia, Senior Advocate with Mr. Sunil Fernandes, Mr. Siddharth Sharma, Ms. Anju Thoman and Ms. Shruti Arora, Advocates.**

**ORDER**

**24.09.2018**— The Appellant, an allottee of the real estate project of the ‘Corporate Debtor’ has preferred this appeal against the order dated 30<sup>th</sup> August, 2018 passed by the Adjudicating Authority (National Company Law Tribunal), Mumbai Bench, Mumbai, whereby and whereunder, the application under Section 9 of the Insolvency and Bankruptcy Code, 2016 (‘I&B Code’ for short) preferred by the Respondents- ‘M/s. Raj Infrastructure Development (India) Private Limited’- (‘Operational Creditor’) has been admitted.

2. Learned Senior Counsel appearing on behalf of the Appellants submitted that the ‘Interim Resolution Professional’ has been *suo moto* appointed by the Adjudicating Authority without calling for name(s) from the Insolvency and Bankruptcy Board of India (‘Board’ for short). However, we are not inclined to interfere with the impugned order on such ground as the period of functioning of an ‘Interim Resolution Professional’ is thirty-days or till the regular ‘Resolution Professional’ is appointed and the impugned order passed on 30<sup>th</sup> August, 2018. In normal course the ‘Interim Resolution Professional’ in question will function only upto 29<sup>th</sup> September, 2018 i.e. for another few days or till a regular ‘Resolution Professional’ is appointed by decision of the ‘Committee of Creditors’.

3. It was next contended that the impugned order has been passed on the very first day when the matter came for admission. However, as we find that the 'Corporate Debtor' has already been noticed and appeared and in absence of any infirmity in the application under Section 9 in Form-5 and there being debt and default, the Adjudicating Authority has admitted the application, we are not inclined to interfere with the impugned order on such ground. If any suit or other case has been filed by the Appellant (allottee of land) against the 'Corporate Debtor' and pending before a Court of Competent Jurisdiction, may be taken up on completion of 'Moratorium' period.

4. We further hold that the submission made by learned Senior Counsel that the application under Section 9 is collusive is to be rejected in absence of any evidence to suggest collusion. We find no merit in this appeal, the appeal stands disposed of with aforesaid observations.

(Justice S.J. Mukhopadhaya)  
Chairperson

(Justice Bansi Lal Bhat)  
Member(Judicial)

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