

NATIONAL COMPANY LAW APPELLATE TRIBUNAL, NEW DELHI

Company Appeal (AT) (Insolvency) No. 386 of 2018

IN THE MATTER OF:

Mr. Raman Puri

...Appellant

Vs.

Pallavi Joshi Bakhru & Anr.

...Respondents

**Present: For Appellant:- Mr. Jayesh Gaurav and Mr. Nikhil, Advocates.
Mr. Ashish Makheja and Mr. Anurag Bhatt, Advocates for impleaders.**

**For Respondents:- Mr. R.K. Gupta, Advocates.
Mr. Suprit Gupta for R-2.**

O R D E R

30.08.2018- This appeal has been preferred against the order dated 3rd July, 2018 passed by the Adjudicating Authority (National Company Law Tribunal), New Delhi Bench, whereby and whereunder, the application under Section 7 of the Insolvency and Bankruptcy Code, 2016 ('I&B Code' for short) preferred by the Respondent- 'Pallavi Joshi Bakhru' allottee of the flat of Real Estate owner has been admitted and 'Corporate Insolvency Resolution Process' has been started against 'Universal Buildwell Pvt. Ltd.'- ('Corporate Debtor').

2. On 3rd August, 2018, when the matter was taken up, the following order was passed:

Contd/-.....

“03.08.2018 *Prima facie, we are of the view that the respondent, allottee of flat by real estate owner comes within the meaning of ‘Financial Creditor’ on the basis of the agreement, apart from the fact that they have been treated to be a ‘Financial Creditor’ by the amendment made on 6th June, 2018 in the Insolvency and Bankruptcy Code.*

At this stage, learned counsel appearing on behalf of the appellant submits that the parties have settled the dispute. If so, he may file an affidavit enclosing the copy of the settlement.

In the meantime, let notice be issued on the respondents by Speed Post to find out whether a settlement has been reached by the petitioner with the respondents or not. Requisite along with process fee, if not filed, be filed by 6th August, 2018. If the appellant provides the e-mail address of respondents, let notice be also issued through e-mail.

Post the case ‘for orders’ on 30th August, 2018. The appeal may be disposed of on the next date.

In the meantime, Interim Resolution Professional (IRP) will ensure that the company remains on going and the manufacturing and production of the company do not suffer, payment of wages to the employees/workmen are made on time and if any material is supplied by any supplier during corporate resolution process, the payment must be paid to the supplier/creditor. If so necessary, the Insolvency Resolution Professional will take aid of (suspended) Board of Directors. The Bank having account of the 'corporate debtor' will also cooperate with the Insolvency Resolution Professional. If possible, the 'Resolution Professional' may ensure completion of the flats and may hand over the possession to the allottees."

3. Pursuant to the notice, the Respondent- 'Pallavi Joshi Bakhru' has appeared and accepted that part payment has been made in terms of the settlement.

4. Mr. Ashish Makheja, Advocate submits that he has filed intervention application on behalf of the five 'Financial Creditors' and

the settlement has already been reached with only one of the 'Financial Creditors'. According to him, it is always open to the Appellant to move before the 'Committee of Creditors' for getting approval of 90% voting shares for moving an application under Section 12A of the 'I&B Code'.

5. Having heard learned counsel for the parties, we are not inclined to grant any relief on the ground that the settlement has been reached between the Appellant and the 1st Respondent but give liberty to the Appellant to move before the 'Committee of Creditors' and thereafter, if allowed, before the Adjudicating Authority for appropriate order under Section 12A of the 'I&B Code'. It will be also open to the Appellant to move before the appropriate forum.

6. The appeal stands disposed of.

(Justice S.J. Mukhopadhaya)
Chairperson

(Justice Bansi Lal Bhat)
Member(Judicial)

Ar/uk