

NATIONAL COMPANY LAW APPELLATE TRIBUNAL
NEW DELHI

Company Appeal (AT) (Insolvency) No. 1177 of 2019

IN THE MATTER OF:

Amit Chauhan

...Appellant

Versus

Mr. Prabhjit Singh Soni & Ors.

...Respondents

Present:

For Appellant :

Mr. Alok Dhir, Ms. Varsha Banerjee and Mr. Kunal Godhwani, Advocates

For Respondents :

**Mr. Manoj Kumar Garg and Mr. Kundan Kr. Roy, Advocates for 'Interim Resolution Professional'
Mr. Pankaj Agarwal, Advocate**

O R D E R

11.11.2019 The Appellant, on behalf of number of home-buyers', wanted to remove 'Mr. Sunil Kumar Agarwal' - 'Authorised Representative' as he was not acting in the interest of the 'home buyers'. It is also stated that the 'Interim Resolution Professional' was also hand in glove with the 'Authorised Representative', and therefore, the Appellant about more than 50% of the majority 'home buyers' remove the 'Mr. Sunil Kumar Agarwal' - 'Authorised Representative' and 'Mr. Prabhjit Singh Soni' - 'Interim Resolution Professional'.

In the meeting of the 'Committee of Creditors', it is informed that the 50% of the 'Home-Buyers' wanted to remove the 'Interim Resolution Professional' and 42% are in support of the 'Interim Resolution Professional' and 8% were absent. In spite of that 'Authorised Representative' and the 'Interim Resolution Professional' have not been removed and majority of the 'Home Buyers preferred C.A. No. 1429(PB)/2019 before the Adjudicating Authority (National Company Law Tribunal), Principal Bench, New Delhi which has been dismissed by a non-speaking impugned order dated 30th September, 2019.

Mr. Manoj Kumar Garg, Advocate appears on behalf of the 'Interim Resolution Professional' and refuted the allegations.

In the present case we find that the impugned order dated 30th September, 2019 is a non-speaking order and reads as follows:

“CA-1429(PB)/2019 :-

The present application stands dismissed.”

In the circumstances, we are of the view that the matter requires reconsideration by the Adjudicating Authority (National Company Law Tribunal), Principal Bench, New Delhi. The impugned order dated 30th September, 2019 so far it relates to C.A. No. 1429(PB)/2019 is set aside. The Appellant and the Home-Buyers are allowed to call for a meeting in the presence of the ‘Interim Resolution Professional’ and in their meeting they will decide whether to remove ‘Mr. Sunil Kumar Agarwal’ - ‘Authorised Representative’ and ‘Mr. Prabhjit Singh Soni’ – ‘Interim Resolution Professional’. The ‘Interim Resolution Professional’ will call for such meeting on or before 25th November, 2019. The decision, as may be taken, be placed before the ‘Committee of Creditors’, who initially decided the matter which is decided against the majority of the home-buyers. It will be open to them to move before the Adjudicating Authority (National Company Law Tribunal), Principal Bench, New Delhi who will decide the matter on merits.

The appeal is disposed of.

[Justice S.J. Mukhopadhaya]
Chairperson

[Justice Venugopal M.]
Member (Judicial)

[Justice Jarat Kumar Jain]
Member (Judicial)

/ns/sk