

NATIONAL COMPANY LAW APPELLATE TRIBUNAL, NEW DELHI

**Interlocutory Application No.2104 of 2019 in
Company Appeal (AT) (Insolvency) No. 278 of 2019**

IN THE MATTER OF:

C. Konguvel & Anr. Appellants

Vs

Mr. K. Gopinath & Anr. Respondents

Present:

For Appellants: Appeared but attendance not marked.

**For Respondents: Mr. P.K. Ganesh and Mr. S. Arun Prakash,
Advocates.**

ORDER

05.07.2019 An application under Section 7 of the Insolvency and Bankruptcy Code, 2016 (I&B Code) was filed by Mr. K. Gopinath and Anr. (Financial Creditors) - Respondents herein against M/s. Dharani Developers Private Limited, which having admitted on 21st February, 2019, the present Appeal has been preferred.

2. On 25th March, 2019, learned Counsel for the Appellants submitted that the Appellants are willing to settle the matter and in view of statement that the 'Committee of Creditors' have not been constituted, this Appellate Tribunal passed interim orders directing the 'Resolution Professional' not to constitute the 'Committee of Creditors'. However, subsequently the parties moved before the Hon'ble Supreme Court and it is informed that the Writ Petition preferred by the parties is withdrawn in view of the settlement reached between the parties.

3. The Appellants have filed the Memorandum of Settlement dated 13th May, 2019. Learned Counsel appearing on behalf of the Respondents submits that in terms of settlement part of the amount has already been received and rest of the amount has been deposited by the Appellants with the National Company Law Tribunal, Chennai Bench. Therefore, Tribunal should be asked to handover the Draft to the Respondents.

4. Having heard learned Counsel for the parties and taking into consideration that the parties have reached settlement on 13th May, 2019, prior to the constitution of 'Committee of Creditors', in exercise of powers conferred under Rule 11 of the NCLAT Rules, 2016, we allow the prayer and set aside the impugned order dated 21st February, 2019. Application under Section 7 filed by the Respondents is disposed of as withdrawn. The parties will be bound by the terms of settlement.

5. In the result, order (s) passed by Ld. Adjudicating Authority appointing 'Interim Resolution Professional', declaring moratorium and all other order (s) passed by Adjudicating Authority pursuant to impugned order and action taken by the 'Resolution Professional' are set aside. The application preferred by the Respondent under Section 7 of the I&B Code is disposed of as withdrawn. The Adjudicating Authority will now close the proceeding. The Respondents Company is released from all the rigour of law and is allowed to function independently through its Board of Directors from immediate effect.

6. The Adjudicating Authority (National Company Law Tribunal), Chennai Bench will direct its Registry to handover the Draft deposited by the

Appellants to the Counsel for the Respondents for onwards transfer to the 'Financial Creditors'.

7. So far as the fee and cost of the 'Interim Resolution Professional'/ 'Resolution Professional' is concerned, the 'Corporate Debtor' will pay the fee and cost within three weeks thereof, failing which it will be open to the 'Interim Resolution Professional'/ 'Resolution Professional' to bring the aforesaid fact to the Notice of this Appellate Tribunal.

8. The appeal is allowed with aforesaid observations and directions. No costs.

[Justice S. J. Mukhopadhaya]
Chairperson

[Justice A.I.S. Cheema]
Member (Judicial)

[Kanthi Narahari]
Member (Technical)

Ash/GC