

NATIONAL COMPANY LAW APPELLATE TRIBUNAL
NEW DELHI

Company Appeal (AT) (Insolvency) No. 568 of 2019

IN THE MATTER OF:

Empress Place Owners Association **...Appellant**

Versus

Chitra Srinivas & Anr. **...Respondents**

WITH

Company Appeal (AT) (Insolvency) No. 569 of 2019

IN THE MATTER OF:

**Levantine Heights Apartments
Allottees Association** **...Appellant**

Versus

Chitra Srinivas & Anr. **...Respondents**

Present:

For Appellant (s) : **Mr. Ankur Singh, Advocate**

For 1st Respondent: **Mr. Ishaan George and Ms. Rukma George,
Advocates**

For 2nd Respondent: **Mr. Arshit Anand, Advocate**

ORDER

09.12.2019 Pursuant to the petition filed by an employee (Operational Creditor), 'Corporate Insolvency Resolution Process' was initiated against 'M/s. Southern Investments Private Limited' (Corporate Debtor). The said 'resolution

process' came to an end pursuant to the order passed by the Hon'ble Supreme Court in 'W.P. (C) No. 452 of 2018' and 'W.P. (C) No. 522 of 2018'. Both the writ petitions were preferred by Appellant 'Empress Place Owners Association' and "Levantine Heights Apartment Allottees Association' . After the process was completed, the appellants preferred application under Section 60(5)(c) of the 'I&B Code' for transfer of the flats on the basis of the allottees on 'as is where is basis' without extinguishing the rights against the company. The Adjudicating Authority (National Company Law Tribunal), Single Bench, Chennai by the impugned order dated 5th April, 2019 while observed that neither the 'corporate insolvency resolution process' nor the 'Liquidation' proceedings are subsisting against 'M/s. Southern Investment Private Limited' (Corporate Debtor) which stood closed by virtue of order of the Hon'ble Supreme Court under Section 60(5)(c) is not maintainable.

Learned counsel appearing on behalf of the 'M/s. Southern Investment Private Limited' (Corporate Debtor) submitted that the company is almost defunct and some of the officers are behind bars. It is made clear that there is no chance of the completion of the project.

In the facts and circumstances of the case, we are not inclined to interfere with the impugned order but to give liberty to the Appellant/Allottees to move fresh application under Section 7 of the I&B Code for initiation of the 'corporate insolvency resolution process against the Respondent so as to ensure that the 'resolution process takes place and the allottees are provided with the flats for which they have already invested.

If any, such application is filed by the Appellants or one or other allottees, the Adjudicating Authority will consider the same in accordance with law uninfluenced by any earlier order passed in the case of the 'Corporate Debtor'.

Both the appeals stand disposed of with aforesaid observations and directions. No costs.

[Justice S.J. Mukhopadhaya]
Chairperson

[Justice Bansi Lal Bhat]
Member (Judicial)

[Justice Venugopal M.]
Member (Judicial)

/ns/gc