

IN THE NATIONAL COMPANY LAW TRIBUNAL
NEW DELHI BENCH - II

IA No. 6052/2021

In

Company Petition (IB) No. 1744/ND/2019

In the matter of:

Sections 60(5) of the Insolvency and Bankruptcy Code, 2016 read with rule 11 of the National Company Law Tribunal Rules, 2016

AND

In the matter of:

Canara Bank (Erstwhile Syndicate Bank)	VERSUS	...Financial Creditor
M/s Bulland Buildtech Pvt. Ltd.		...Corporate Debtor

MEMO OF PARTIES IN THE I.A.

Sterling Paraphernalia Pvt. Ltd. C-3, Sector-58, Noida-201301 District- G.B Nagar, U.P	Versus	...Applicant
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Sh. Debashis Nanda, Resolution Professional, Bulland Buildtech Pvt Ltd (Corporate Debtor) Flat No C S -14, C-Floor, Ansal Plaza, Vaishali, Ghaziabad, Uttar Pradesh, 201010		...Respondent
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ORDER DELIVERED ON: 08.06.2022

CORAM:

Sh. Abni Ranjan Kumar Sinha, Hon'ble Member (Judicial)

Sh. L. N. Gupta, Hon'ble Member (Technical)

For the Applicant: Mr. Shashwat Parihar, Mr. Dhruva Vig, Advs.

For the RP: Adv. Abhishek Parmar



ORDER**AS PER: SH. ABNI RANJAN KUMAR SINHA, MEMBER (JUDICIAL)**

1. The present application is filed by the applicant against the rejection of the applicant's claim by the Resolution Professional, communicated vide email dated 23.12.2021 and for seeking direction upon the Resolution Professional for admission of the claim of the applicant as the class of Creditors and not as Financial Creditor
2. Brief Facts of the case are as follows:
 - i. The applicant is a unit-buyer having purchased 7 (seven) distinctive units bearing unit Nos. 703, 1002, 1503, 1606, 1702, 1802 and 1902 ("Unit / Units" herein) being situated at Plot No. GH - 3A, Sector - 16C, Greater Noida West, Uttar Pradesh in the project "Bulland Elevates" ("Project" herein) of the Corporate-Debtor ("CD" herein) i.e., Bulland Buildtech Pvt Ltd.
 - ii. The Applicant / Claimant, M/s Sterling Paraphernalia Pvt Ltd, is a Company registered under the Companies Act, 1956 and has authorised Mr. Bimlesh Verma (Director) as its Authorised Representative ("AR" herein) vide board resolution dated 26.11.2021.
 - iii. The Applicant herein had advanced loan and claimed total amount of Rs. 3,33,20,000/- including interest to the Corporate Debtor i.e., M/s Bulland Buildtech Pvt Ltd and it was agreed between the parties that the said amount with interest will be refunded back to the Applicant in a time-bound manner. However, the said loan amount eventually became due when the Corporate Debtor could not pay back the same to the Applicant.
 - iv. That due to default in payment of amount, the Applicant had filed a Joint Petition under Section 7 of IB Code before the Hon'ble NCLT, wherein the Applicant was Petitioner No. 03 in the said Joint petition bearing No. (IB)-73(ND)/2019 titled as 'Dharmendra & Ors. v. M/s Bulland Buildtech Pvt Ltd', for the initiation of CIR Process against the corporate debtor.
 - v. However, the matter was settled between the parties and a MoU was executed between the parties on 23/ 11/ 2019.
 - vi. That as per the MoU dated 23.11.2019 it was agreed upon that the Corporate Debtor shall issue & allot 7 (seven) flats/ apartment units to the Applicant herein against the agreed settlement amount of Rs. 3,05,00,000/-. The details of the Apartment Units are as follows:-
 - a. Flat No. 703 in Block D measuring 1370 Sq. Ft. (Super Area) vide it's Allotment Letter dated 23/11/2019,



- b. Flat No. 1002 in Block D measuring 1445 Sq. Ft. (Super Area) vide it's Allotment Letter dated 23/11/2019,
- c. Flat No. 1503 in Block - D measuring 1370 Sq. Ft. (Super Area) vide it's Allotment Letter dated 23/11/2019,
- d. Flat No. 1606 in Block D measuring 1370 Sq. Ft. (Super Area) vide it's Allotment Letter dated 23/11/2019,
- e. Flat No. 1702 in Block - D measuring 1445 Sq. Ft. (Super Area) vide it's Allotment Letter dated 23/11/2019,
- f. Flat No. 1802 in Block - D measuring 1445 Sq. Ft. (Super Area) vide it's Allotment Letter dated 23/11/2019,
- g. Flat No. 1902 in Block-D measuring 1445 Sq. Ft. (Super Area) vide its Allotment Letter dated 23/11/2019.

All the flats / apartment units have been allotted in the name of 'M/s. Sterling Paraphernalia Private Limited' by the Corporate Debtor in their residential project 'BULLAND ELEVATES' at Plot No. GH - 3A, Sector-16C, Greater Noida West, Uttar Pradesh.

- vii. Thereafter, the Corporate Debtor went into CIR Process vide Order dated 22.03.2021 and Mr. Mahesh Taneja was appointed as the Interim-RP, and subsequently made public announcement dated 26.03.2021.
- viii. That vide Order dated 03.09.2021 Mr. Debashis Nanda was appointed as the Resolution Professional by , replacing Mr. Mahesh Taneja as the IRP.
- ix. That after initiation of CIR Process of CD, the Applicant had submitted its claim before the RP in Form CA on 11.08.2021, in respect of seven apartment units amounting to Rs. 3,05,00,000 as per the terms of the MoU, but the same was rejected by the RP, which was communicated to the applicant vide email dt. 24.11.2021, in an arbitrary and unjust manner and has held the MoU being not valid.
- x. That the R.P while rejecting the claim also made an observation that the Corporate Debtor has fraudulently transferred the seven apartment units, which were mortgaged to Canara Bank . The said transfer/mortgage is in direct contradiction with Sections 43 and 66, as well as other relevant provisions of the IB Code.
- xi. That it is further submitted that the Resolution Professional has acted contrary to the provision of Section 25 of IB Code as well as Regulations 13 under IBBI (Insolvency resolution Process For Corporate Persons) Regulations, 2016 for the non-acceptance and non-verification of the claim of Applicant herein, in an unjust and arbitrary manner.



- xii. That it is further submitted that the Applicant falls within the definition of an "Allottee" under the RERA Act, 2016. The Applicant is well within its right to submit its claim as the Applicant falls within the provisions of a "financial creditor" under Section 5(7) of the IB Code, and also that where the claim of the Applicant is covered under Section 5(8)(f) of the IB Code.
 - xiii. It is well settled law that the role of the RP is not adjudicatory but administrative. The same has been held in the case M/s. Dynepro Private Limited vs. Mr. V. Nagarajan [Company Appeal (AT) (Insolvency) No. 229 of 2018] where the Hon'ble NCLAT by its judgment dated 30th January 2019 held that 'Resolution Professional' has no jurisdiction to decide the claim of one or other creditors, including Financial Creditor, Operational Creditor, Secured Creditor or unsecured Creditor.
 - xiv. Further, the Hon'ble Apex Court in matter of Swiss Ribbons Pvt. Ltd. & Anr. vs. Union of India & Ors. – Writ Petition (Civil) No. 99 of 2018 vide its judgment dated 25.02.2019 held that 'Resolution Professional' has no adjudicatory power, and that resolution professional cannot act arbitrarily in various matters without first obtaining permission from the committee of creditors, and that a resolution professional essentially acts as a facilitator.
 - xv. Further, in a recent judgment passed by the Hon'ble Apex Court in the matter of Committee of Creditors of Essar Steel India Limited Vs. Satish Kumar Gupta & Ors. [Civil Appeal No. 8766-67/2019 and other petitions], it has been held that the role of the RP is not adjudicatory but administrative.
 - xvi. The Applicant has also referred to the judgment of Hon'ble NCLAT matter of Mr. S. Rajendaran, Resolution Professional of PRC International Hotels Private Limited V/s Jonathan Muralidarane, CA (AT) (Ins)1018/2019.
 - xvii. It is submitted that the Undertaking and Receipts issued to the Applicant by the CD herein also provide as a relevant document of proof for the purposes of accepting the claim of the Applicant which has been arbitrarily and unjustly rejected by the RP.
 - xviii. It is further submitted that the present claim has been filed at a time when no such Resolution Plan has been passed/approved by the Hon'ble NCLT ("Adjudicating Authority"), and that the Corporate Debtor is presently at the stage of accepting claims.
- 3.** That the applicant has filed the written submissions and the scanned copy of which is reproduced below:

Written Submission on behalf of Applicant

MOST RESPECTFULLY SHOWETH:

1. That the Applicant herein provided Rs. 2,00,00,000/- (Rupees Two Crore Only) amount in four installments of Rs.50,00,000/- (Rupees Fifty Lacs Only) each as business loan to in the year 2015, and in order to secure the loan which Corporate Debtor provided 4 Nos. (Flat Nos. 902, 402, 302 & 802 in Block E) of flats as security to the Applicant. The very same fact has been placed by the Resolution Professional in the Reply filed by him at **Para 12 page 3** of reply.
2. That in the year 2018 when the Applicant filed Section 7 Petition [CP(IB)No.73(ND)/2019] against the Corporate Debtor, the Corporate Debtor approached the Applicant for settlement and in lieu of settlement entered into an Memorandum of Understanding (herein “MoU”) dated 23.11.2019, whereby all the earlier documents, receipts, Builder-Buyer agreements or any other documents executed with regard to reimbursement of payment were returned by the Applicant to the Corporate Debtor as per Clause 6 and 7 of the MoU dated 23.11.2019 and then both the parties that is the Corporate Debtor and the Applicant entered into a fresh arrangement whereby the Corporate Debtor in the capacity of Real Estate Developer had allotted 7 flats in the real estate project to the Allottee that is the Applicant herein . It is pertinent to mention here that as soon as the Corporate Debtor and the Applicant entered



the MoU dated 23.11.2019 they become Real Estate Developer and Allottee respectively, it is submitted that as per clause 6 of MOU dated 23.11.2019 all the exiting documents executed earlier were returned and hence the validity of earlier MOU ended. (MOU page12- page 16 of application).

3. That the claim form submitted by the Canara Bank as annexed with the Reply filed by the Resolution Professional at page 40 to 42 doesn't have any specific mention of the 7 flats which were allotted to the Applicant being mortgaged to the Canara Bank. It is further mention that the claim form doesn't have a mention that any sales report has been annexed by Canara Bank with its claim form whatsoever.
4. That it is submitted that the sale report and the 4QT software were maintained by the Corporate Debtor itself, and since Corporate Debtor is a willful defaulter in the present matter, the authenticity of the said sale report and even that entries that were made in said software is questionable and same can't be solely relied upon to reject the claim or admit the claim to the Applicant in some other category apart from being a Homebuyer. The sale report and the software data must be corroborated with some other evidence to judge the claim of homebuyers and the same cannot be relied upon in such solitary manner. The Applicant herein has submitted the MoU entered between him and the Corporate Debtor and even the Resolution Professional has admitted the fact the funds were transferred by the Applicant here to the Corporate Debtor and even the fact that 4 flats were mortgage to the Applicant as security, further the fact that the allotment letters and the MOU dated 23/11/2019 submitted by the Applicant in its application and with the claim form CA submitted to RP has not been questioned by the Resolution Professional either at the time of mistreating the claim of the Applicant or at the time of filing Reply to the present Application.

PRAYER

In view of the above facts and submissions, it is humbly prayed that this Hon'ble Tribunal, be pleased to grant the following reliefs-

- (a) Pass an order directing the Respondent/RP to admit the claim of the Applicant.
- (b) Direct the Respondent to consider Applicant at par to the other unit



buyers/claimants while implementing the Resolution Plan.

(c) Pass any further orders or directions, as it may deem fit in the facts and circumstances.

4. That the respondent has also filed the written submissions and the scanned copy of which is reproduced below:

**SHORT WRITTEN SUBMISSIONS ON BEHALF OF RESPONDENT I.E
RESOLUTION PROFESSIONAL OF THE CORPORATE DEBTOR IN
COMPLIANCE OF THE ORDER DATED 11.04.2022 PASSED BY THIS
HON'BLE TRIBUNAL**

Most Respectfully Showeth:

1. That the present application has been filed by the applicant for seeking directions of this Hon'ble Tribunal for admission of its claim in the category of Homebuyers i.e under Form CA (creditors in class) in terms of the MoU dated 23.11.2019.
2. That the respondent, while assessing and verifying the claim documents of the applicant and with the documents provided by the corporate debtor, found that initially applicant had given a loan of Rs. 2,00,00,000/- (Rupees Two Crores Only) at the rate 24 percent per month vide 4 demand draft of Rs 50,00,000/- each dated 14.09.2017 and pursuant to such loan applicant entered into 4 MoU with the corporate debtor dated 14.09.2015 for each payment of Rs 50,00,000/-. (Refer Annexure C Page 13-35 of the reply)
3. That the said amount disbursed by applicant to corporate debtor was duly recorded in the ledger account as maintained by the corporate debtor, which specifically shows that an amount of Rs 2,00,00,000/- has been received by the corporate debtor. After receipt of such amount on account of loan, the corporate debtor from the period from June 2016 to October 2019 had paid a cumulative sum of Rs 1,36,80,000/- on account of interest to the applicant, and an amount of Rs 1,10,00,000/- stands outstanding as on date towards payable interest. (Refer Annexure D at Page 36-39 of reply)



and corporate debtor tried to settle the matter outside the court amicably, pursuant to which applicant and corporate debtor entered into MoU dated 23.11.2019, contents of which states that the principal amount including interest of Rs 3,33,20,000/- is settled at a cumulative price of Rs 3,05,00,000/- being the final settled amount between the applicant and the corporate debtor as on this date of that MoU. The said MoU further acknowledges that the applicant is in receipt of Rs 16,00,000/- as on date of MoU. The corporate debtor in lieu of settled amount, issued & allotted 7 (seven) units. (Refer Annexure- A2 at Page 12-16 of the main application)

5. That it is the apprehension of the respondent that the MoU entered dated 23.11.2019 is totally done in malice and happened to be null and void in eyes of law having been neither recorded in the software of the corporate debtor maintained for the allottees nor any NoC taken from the secured financial creditor which otherwise was created as security to the bank. That the corporate debtor while availing financial facilities from the secured creditor namely Canara Bank (erstwhile Syndicate Bank) had submitted the list of sold units to the Canara bank as on 31.12.2015 and 30.06.2020, but the allotment of such units to applicant is not present in the said sale/allotment report. (Refer Annexure E of the reply)
6. That the details of such allotment were never been recorded in the software maintained for recording the details of homebuyers, nor any physical copy of such allotment have been found in the records of the corporate debtor.
7. That in view of the above facts and submissions, it is concluded that the applicant falls under the definition of section 5 (8) (a) of the IB Code, 2016 which states that " 5 (8) "financial debt" means a debt alongwith interest, if any, which is disbursed against the consideration for the time value of money and includes- (a) money borrowed against the payment of interest;" Since initially loan amount was given for accruing the interest @2.4 % per month on the consideration paid by the applicant. Therefore, applicant falls under the definition of financial creditor as laid down under provisions of section 5(8) (a) of the IB Code, 2016. The subsequent settlement and allotment of seven (7) units cannot alter the nature of original transaction as defined under section 5(8) (a) of IB Code, 2016.
8. That the respondent submits that the claim of applicant was not rejected, but rather he was advised to file his claim under the category of Form-C. and based on adjudication by Hon'ble Bench, the respondent is willing to entertain the claim, even though it is time barred as its claim was pending for adjudication by this Hon'ble Bench. (Refer Page 134-140 of application)
9. That, thus in terms of above submission by the present respondent, the present application is liable to be dismissed with suitable directions to the applicant.




5. We have heard the Ld. Counsel appearing for the applicant as well as the Resolution Professional and perused the averments made in the application, written submissions filed by the respective parties and the rejoinder filed by the applicant.

6. On the basis of the averments made in the application, written submissions and rejoinder, we observe that the applicant is claiming itself as an allottee under the project on the basis of a Memorandum of Understanding arrived between the applicant and the Corporate Debtor on 23.11.2019 and in terms of that Memorandum of Understanding, an allotment letter was issued by the Corporate Debtor to the applicant (placed at Page 17 onwards of the application). Whereas the contention of the Resolution Professional is that since originally, the applicant has granted the loan to the Corporate Debtor against the payment of interest, therefore, the applicant is a Financial Creditor and does not come under the category of allottee as a class of creditors. Ld. Counsels for the applicant and the Resolution Professional raised all the facts mentioned in the written submissions filed by the respective parties, therefore, it is needless to repeat the same.

7. Now in terms of the submissions made in the application, rejoinder and the written submissions filed by the respective parties, we consider^{ed} the prayer of the applicant. At this juncture, we would like to refer to the Email communications placed from page 134 to 140 of the application. The scanned copy of the same are reproduced below:-





ANNEXURE A6 **134**
(COLLY) Dhruva Vig <dhruvavig@gmail.com>

Fwd: 703 papers

shashwat Anand <shashwatanand.adv@gmail.com>
To: dhruvavig@gmail.com

Mon, Dec 6, 2021 at 11:40 AM

Regards
Shashwat Anand
Advocate
Supreme Court of India
Mob- 9722369864
shashwatanand.adv@gmail.com

----- Forwarded message -----
From: **Bimlesh Verma** <vknoida@gmail.com>
Date: Mon, 29 Nov 2021 at 12:40
Subject: Fwd: 703 papers
To: <shashwatanand.adv@gmail.com>

----- Forwarded message -----
From: **Bulland Buildtech** <ip.bulland@gmail.com>
Date: Wed, Nov 24, 2021 at 12:14 PM
Subject: Re: 703 papers
To: Bimlesh Verma <vknoida@gmail.com>

Dear Sir,

Greetings of the day!

As per the initial scrutiny of the documents we would like to inform you that the initial intention of your good office was to earn interest on the money so advanced and not to secure your unit.

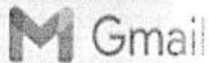
Also, the flat so secured as per your agreement was already mortgaged to canara bank. Hence, you are requested to file your claim Form C and not CA as you do not stand on the footing of homebuyers.

In case of any concern please let us know.

Regards,

On Sun, Nov 21, 2021 at 11:38 AM Bimlesh Verma <vknoida@gmail.com> wrote:

135



Dhruva Vig <dhruvavig@gmail.com>

Fwd: 1002 papers

shashwat Anand <shashwatanand.adv@gmail.com>
 To: dhruvavig@gmail.com

Mon, Dec 6, 2021 at 11:40 AM

Regards
 Shashwat Anand
 Advocate
 Supreme Court of India
 Mob- 9722369864
 shashwatanand.adv@gmail.com

----- Forwarded message -----

From: **Bimlesh Verma** <vknoida@gmail.com>
 Date: Mon, 29 Nov 2021 at 12:39
 Subject: Fwd: 1002 papers
 To: <shashwatanand.adv@gmail.com>

----- Forwarded message -----

From: **Bulland Buildtech** <ip.bulland@gmail.com>
 Date: Wed, Nov 24, 2021 at 12:14 PM
 Subject: Re: 1002 papers
 To: Bimlesh Verma <vknoida@gmail.com>

Dear Sir,

Greetings of the day!

As per the initial scrutiny of the documents we would like to inform you that the initial intention of your good office was to earn interest on the money so advanced and not to secure your unit.

Also, the flat so secured as per your agreement was already mortgaged to canara bank. Hence, you are requested to file your claim Form C and not CA as you do not stand on the footing of homebuyers.

In case of any concern please let us know.

Regards,

On Sun, Nov 21, 2021 at 11:38 AM Bimlesh Verma <vknoida@gmail.com> wrote:



136



Dhruva Vig <dhruvavig@gmail.com>

Fwd: 1503 papers

shashwat Anand <shashwatanand.adv@gmail.com>
To: dhruvavig@gmail.com

Mon, Dec 6, 2021 at 11:37 AM

Regards
Shashwat Anand
Advocate
Supreme Court of India
Mob- 9722369864
shashwatanand.adv@gmail.com

----- Forwarded message -----
From: **Bimlesh Verma** <vknoida@gmail.com>
Date: Mon, 29 Nov 2021 at 12:38
Subject: Fwd: 1503 papers
To: <shashwatanand.adv@gmail.com>

----- Forwarded message -----
From: **Bulland Buildtech** <ip.bulland@gmail.com>
Date: Wed, Nov 24, 2021 at 12:15 PM
Subject: Re: 1503 papers
To: Bimlesh Verma <vknoida@gmail.com>

Dear Sir,

Greetings of the day!

As per the initial scrutiny of the documents we would like to inform you that the initial intention of your good office was to earn interest on the money so advanced and not to secure your unit.

Also, the flat so secured as per your agreement was already mortgaged to canara bank. Hence, you are requested to file your claim Form C and not CA as you do not stand on the footing of homebuyers.

In case of any concern please let us know.

Regards,

On Sun, Nov 21, 2021 at 11:38 AM Bimlesh Verma <vknoida@gmail.com> wrote:

137



Dhruva Vig <dhruvavig@gmail.com>

Fwd: 1606 papers

Mon, Dec 6, 2021 at 11:39 AM

shashwat Anand <shashwatanand.adv@gmail.com>
 To: dhruvavig@gmail.com

Regards
 Shashwat Anand
 Advocate
 Supreme Court of India
 Mob- 9722369864
 shashwatanand.adv@gmail.com

----- Forwarded message -----
 From: Bimlesh Verma <vknoida@gmail.com>
 Date: Mon, 29 Nov 2021 at 12:38
 Subject: Fwd: 1606 papers
 To: <shashwatanand.adv@gmail.com>

----- Forwarded message -----
 From: Bulland Bulldtech <ip.bulland@gmail.com>
 Date: Wed, Nov 24, 2021 at 12:15 PM
 Subject: Re: 1606 papers
 To: Bimlesh Verma <vknoida@gmail.com>

Dear Sir,

Greetings of the day!

As per the initial scrutiny of the documents we would like to inform you that the initial intention of your good office was to earn interest on the money so advanced and not to secure your unit.

Also, the flat so secured as per your agreement was already mortgaged to canara bank. Hence, you are requested to file your claim Form C and not CA as you do not stand on the footing of homebuyers.

In case of any concern please let us know.

Regards,

On Sun, Nov 21, 2021 at 11:38 AM Bimlesh Verma <vknoida@gmail.com> wrote:

Subject: Fwd: sterling docs

138

? **Bimlesh Verma** <vkncida@gmail.com>
to shashwatanand.adv

You are viewing an attached message. Gmail can't verify the authenticity of attached messages.

----- Forwarded message -----
From: **Bulland Buildtech** <bulland@gmail.com>
Date: Wed, Nov 24, 2021 at 12:15 PM
Subject: Re: sterling docs
To: Bimlesh Verma <vkncida@gmail.com>

Dear Sir,

Greetings of the day!

As per the initial scrutiny of the documents we would like to inform you that the initial intention of your good office was to **earn interest on the money so advanced and not to secure your unit.**

Also, the flat so secured as per your agreement was already mortgaged to canara bank. Hence, you are requested to **file your claim Form C and not CA** as you do not stand on the footing of homebuyers.

In case of any concern please let us know.

Regards,

On Sun, Nov 21, 2021 at 11:41 AM Bimlesh Verma <vkncida@gmail.com> wrote:

Subject: Fwd: 1802 papers

139

? **Bimlesh Verma** <vkncida@gmail.com>
to shashwatanand.adv

Mon, Nov 29, 12:38 PM

You are viewing an attached message. Gmail can't verify the authenticity of attached messages.

----- Forwarded message -----
From: **Bulland Buildtech** <bulland@gmail.com>
Date: Wed, Nov 24, 2021 at 12:15 PM
Subject: Re: 1802 papers
To: Bimlesh Verma <vkncida@gmail.com>

Dear Sir,

Greetings of the day!

As per the initial scrutiny of the documents we would like to inform you that the initial intention of your good office was to **earn interest on the money so advanced and not to secure your unit.**

Also, the flat so secured as per your agreement was already mortgaged to canara bank. Hence, you are requested to **file your claim Form C and not CA** as you do not stand on the footing of homebuyers.

In case of any concern please let us know.

Regards,

On Sun, Nov 21, 2021 at 11:48 AM Bimlesh Verma <vkncida@gmail.com> wrote:

dv

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140

M Gmail

Dhruva Vig <dhruvavig@gmail.com>

Fwd: 1902 papersshashwat Anand <shashwatanand.adv@gmail.com>
To: dhruvavig@gmail.com

Mon, Dec 6, 2021 at 11:39 AM

Regards
Shashwat Anand
Advocate
Supreme Court of India
Mob- 9722369864
shashwatanand.adv@gmail.com

----- Forwarded message -----
From: **Bimlesh Verma** <vknoida@gmail.com>
Date: Mon, 29 Nov 2021 at 12:39
Subject: Fwd: 1902 papers
To: <shashwatanand.adv@gmail.com>

----- Forwarded message -----
From: **Bulland Buildtech** <ip.bulland@gmail.com>
Date: Wed, Nov 24, 2021 at 12:15 PM
Subject: Re: 1902 papers
To: Bimlesh Verma <vknoida@gmail.com>

Dear Sir,

Greetings of the day!

As per the initial scrutiny of the documents we would like to inform you that the initial intention of your good office was to earn interest on the money so advanced and not to secure your unit.

Also, the flat so secured as per your agreement was already mortgaged to canara bank. Hence, you are requested to file your claim Form C and not CA as you do not stand on the footing of homebuyers.

In case of any concern please let us know.

Regards,

On Sun, Nov 21, 2021 at 11:38 AM Bimlesh Verma <vknoida@gmail.com> wrote:

8. On perusal of the Emails referred to supra, we observe that the ground for not accepting the claim of applicant as a homebuyer is that applicant has initially advanced the loan to the corporate debtor to earn the interest on the money so advanced and not to secure unit (s) and it is reflected in the ledger account of the corporate debtor as referred to in paragraph 3 of the written submissions. It is also mentioned in the said paragraph that the corporate debtor from June 2016 to October 2019 had repaid an amount of Rs. 1,36,80,000/ on account of interest to the applicant and Rs 1,10,00,000/ stands outstanding as towards interest and the other ground is that the flats so secured as per the MOU are already mortgaged to Canara Bank and i.e. the reason a direction was given to the applicant to file a claim in Form-C and not in Form-CA.

9. On the basis of averments made in the applications, reply, rejoinder and written submissions, we observe that it is an admitted fact that originally

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the applicant had advanced the money against the payment of interest and when the Corporate Debtor defaulted in making the payment, the applicant alongwith other financial creditors had filed an application under Section 7 of IBC as a Financial Creditor to initiate the CIRP against the Corporate Debtor. During the pendency of that application both the parties had entered in an MOU on 23.11.2019 and in terms of that MOU, the part amount was paid by the Corporate Debtor to the applicant and in lieu of part amount, 7 flats were given to the applicant by issuing the allotment letter. We further observe that it is the case of the Resolution Professional that the said flats are earlier already mortgaged by the Corporate Debtor to the Canara Bank and this fact has also not been denied by the applicant. The question is that if a property is mortgaged and an interest has already been created in the property by way of mortgage to a third person, can that property be again allotted to another person. At this juncture, we would like to refer to Section 58(a) and Section 60 of Transfer of Property Act.

Section 58(a) in The Transfer of Property Act, 1882

(a) *A mortgage is the transfer of an interest in specific immoveable property for the purpose of securing the payment of money advanced or to be advanced by way of loan, an existing or future debt, or the performance of an engagement which may give rise to a pecuniary liability. The transferor is called a mortgagor, the transferee a mortgagee; the principal money and interest of which payment is secured for the time being are called the mortgage-money, and the instrument (if any) by which the transfer is effected is called a mortgage-deed.*

Section 60 in The Transfer of Property Act, 1882

60. Right of mortgagor to redeem.—At any time after the principal money has become 1[due], the mortgagor has a right, on payment or tender, at a proper time and place, of the mortgage-money, to require the mortgagee

(a) to deliver 2[to the mortgagor the mortgage-deed and all documents relating to the mortgaged property which are in the possession or power of the mortgagee], (b) where the mortgagee is in possession of the mortgaged property, to deliver possession thereof to the mortgagor, and (c) at the cost of the mortgagor either to re-transfer the mortgaged



property to him or to such third person as he may direct, or to execute and (where the mortgage has been effected by a registered instrument) to have registered an acknowledgement in writing that any right in derogation of his interest transferred to the mortgagee has been extinguished: Provided that the right conferred by this section has not been extinguished by act of the parties or by 3[decree] of a Court. The right conferred by this section is called a right to redeem and a suit to enforce it is called a suit for redemption. Nothing in this section shall be deemed to render invalid any provision to the effect that, if the time fixed for payment of the principal money has been allowed to pass or no such time has been fixed, the mortgagee shall be entitled to reasonable notice before payment or tender of such money. Redemption of portion of mortgaged property.— Nothing in this section shall entitle a person interested in a share only of the mortgaged property to redeem his own share only, on payment of a proportionate part of the amount remaining due on the mortgage, except 4[only] where a mortgagee, or, if there are more mortgagees than one, all such mortgagees, has or have acquired, in whole or in part, the share of a mortgagor.

10. On the conjoint reading of these provisions, it is seen that mortgage is the transfer of interest in a specific immovable property for the purpose of receiving the payment of money advanced or to be advanced by way of loan. And right to redeem the mortgaged property is provided under Section 60 of the Transfer of Property Act. According to the provision, at any time, after the principal money becomes due the mortgagor has right on payment or tender at a proper time and place of the mortgage money to require the mortgagors to deliver to the mortgagor the mortgage deed and all documents relating to the mortgaged property. Herein the case in hand, the applicant has not placed any document to show that the mortgage is already redeemed by the Corporate Debtor before allotting the units to the applicant. Therefore, if security has already been created upon the particular units by the Corporate Debtor prior to the allotment of that units, under such circumstance, on the basis of MOU, the person who was initially not an allottee rather a Financial Creditor other than allottee in terms of Section 5(8)(f) of the IBC, in our considered view, cannot claim itself as an allottee on the basis of the MOU which was arrived at during the pendency of an application filed by the applicant as a Financial Creditor and not an allottee.

11. So far as the contention of the applicant that the R.P has no right under the law to adjudicate the claim is concerned, there is no doubt that the

power of adjudication is not vested with the R.P, but in terms of Regulation 13 of the IBBI (Insolvency Resolution Process for the Corporate Persons) Regulation 2016 the R.P is required to verify the claims from the records of the corporate debtor. We observe that the R.P herein has verified the claim of the applicant from the record of the corporate debtor, and then communicated to the applicant to file the claim in Form C and not in Form CA. Hence, we are of the considered view that the Resolution Professional has rightly directed the applicant to file a claim in Form-C and not in Form-CA as an allottee. Hence, we find no merit in the application. Accordingly, the prayer of the applicant is rejected and the **application is dismissed.**

- Sd -

(L. N. Gupta)
Member (Technical)

... - Sd -
(Abni Ranjan Kumar Sinha)
Member (Judicial)

IN THE NATIONAL COMPANY LAW TRIBUNAL
NEW DELHI BENCH - II

IA No. 1387/2022

In

Company Petition (IB) No. 1744/ND/2019

In the matter of:

Sections 60(5) of the Insolvency and Bankruptcy Code, 2016 read with rule 11 of the National Company Law Tribunal, 2016

AND

In the matter of:

Canara Bank

(Erstwhile Syndicate Bank)

...Financial Creditor

VERSUS

M/s Bulland Buildtech Pvt. Ltd.

...Corporate Debtor

MEMO OF PARTIES IN THE I.A.

1. MR. VISHAL CHELANI
S/o Shri Kanhayalal Chelani
R/o K-4118, Gaur Green City,
Vaibhav Khand, Indirapuram,
Ghaziabad-201012, Uttar Pardesh
2. MR. HARENDRA KUMAR ROY
S/o Shri Deo Kumar Rai
R/o A-402, Amba G Residency,
Plot no.-1A, Ahinsa Khand-II,
Ghaziabad, Uttar Pradesh
3. MR. SURESH KUMAR DOGRA
S/o Late Shri Banarsi Dass
R/o Anu-Khurd, P.O. & Dist. Hamirpur,
Himachal Pradesh-177001
4. MR. ROHAN KUMAR
S/o Shri Anil Kumar
R/o A-202, Benchmark Serenity Apartments,
Near ATE College,
Doddakannalli Sarjapur Road,
Bengaluru South, Karnataka-560035
5. MRS. MITHILESH SINGH
W/o Shri Satya Prakash Singh
R/o House No. 35/11, Vishnupuri Colony,
Katarijyora Nawab Ganj, Kanpur Nagar,

IA No. 1387/2022

In

Company Petition (IB) No. 1744/ND/2019

Uttar Pradesh - 208002

...Applicants/Financial Creditors

Versus

Sh. Debashis Nanda,
Resolution Professional,
Bulland Buildtech Pvt Ltd (Corporate Debtor)
Flat No C S -14, C-Floor,
Ansal Plaza, Vaishali, Ghaziabad,
Uttar Pradesh, 201010

...Respondent

ORDER DELIVERED ON: 08.06.2022

CORAM:

Sh. Abni Ranjan Kumar Sinha, Hon'ble Member (Judicial)
Sh. L. N. Gupta, Hon'ble Member (Technical)

PRESENT:

For the Applicant: Adv. Asmita Chaudhary

For the Respondent/ R.P: Adv. Abhishek Parmar

ORDER

AS PER: SH. ABNI RANJAN KUMAR SINHA, MEMBER (JUDICIAL)

1. The present application is filed by the Applicants herein to direct the Resolution Professional /respondent to admit the claims of the Applicants under Form CA and treat them as homebuyers under creditors of class and reconstitute the CoC and to order status quo as to finalization of the resolution plan and the convening of the meetings of the CoC.
2. Brief Facts of the case are as follows:
 - i. The applicants have booked and purchased units in "Bulland Elevates" by infusing their monies and executed a standard builder buyer agreement with the corporate debtor.
 - ii. That the applicant(s) being the aggrieved homebuyers had filed a complaint before the Id. Uttar Pradesh Real Estate Regulatory Authority, Gautam Budh Nagar Bench [hereinafter referred to as "UPRERA". In the adjudication of the said complaint, the order was passed in the favour of the Applicant(s), whereby the corporate debtor was directed to refund the monies paid by the applicant(s) along with interest. Since the order remained unsatisfied, the Id. UPRERA issued recovery certificate(s) in the matter of the Applicant(s).

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In

Company Petition (IB) No. 1744/ND/2019

- iii. That the corporate debtor being defaulter in went into Corporate Insolvency Resolution Process [hereinafter referred to as "CIRP], whereby claims were invited from the interim resolution professional/respondent. Accordingly, the Applicant(s) being homebuyers of the corporate debtor had filed their claims under Form CA before the resolution professional/respondent on the basis of the Builder Buyer Agreement executed with the corporate debtor against the purchase of the unit, payments made to the corporate debtor for the units purchased and on the basis of the order passed by the Id. UPRERA.
 - iv. The Applicants had earlier filed their claims before the resolution professional/respondent in the form CA in the capacity of the homebuyers. But again on the insistence/under the guidance of Mr. Debashis Nanda, the resolution professional/respondent had filed form C without knowing the implications of the same. Finally, the applicants in dissent to the decision of the resolution professional/respondent to treat them as unsecured financial creditor, the applicants resubmitted their claims under Form CA.
 - v. That the Applicant(s) have questioned the resolution professional/respondent with respect to the distinction in their status from the other homebuyers, who were being treated in a class of allottees. In reply to the queries, the RP/respondent could not give any reasonable answer and rather tried putting on the burden of the same on the proposed resolution applicant(s).
 - vi. That the applicants have placed reliance on the judgments of the Hon'ble Supreme Court in the matter of Swiss Ribbons (P) Ltd. vs. Union of India (2019) 4 SCC 17 and Pioneer Urban Land & Infrastructure Limited & Anr. Vs. Union of India 2019 SCC Online SC 1005 and Amit Katyal vs. Meera Ahuja & Ors. Civil Appeal No. 3778/2022.
3. The applicants have filed the written submissions and the scanned copy of which are reproduced below:



WRITTEN SUBMISSIONS ON BEHALF OF THE APPLICANT(S)

MOST RESPECTFULLY SHOWETH:

1. That the applicant(s) have approached this Hon'ble Tribunal against the action of respondent, Mr. Debashis Nanda, Resolution Professional for rejection of their claim filed under form CA as the financial creditors in class as Allotees.
2. That the brief facts of the case are as follows:
 - Applicants/Allotees who were aggrieved by the corporate debtor for not handing over the possession of the units as per contractual due date of possession, had approached the Hon'ble Uttar Pradesh Real Estate Regulatory Authority [hereinafter referred to as "UPRERA"] for the redressal of the same.
 - After hearing the both parties in details, the Hon'ble UPRERA passed order in the favor of the applicants, directing the corporate debtor to refund the amount as the project was far from completion. Later on, recovery certificates were issued on non-compliance of the above RERA orders.
 - Meanwhile, this Hon'ble Tribunal had initiated CIRP against the corporate debtor by its order dated 22.03.2021 in CP (IB) No.-1744(ND)/2019. Accordingly, the interim resolution professional issued public announcement inviting claims. In compliance of the same the applicant(s) filed their claims under Form CA [Refer Annexure-A3 (Colly) at Page no. 36 of the Application] with the former IRP. The Claims filled by applicant(s) under Form CA was accepted by IRP under Home Buyer Category.



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- Later the IRP/RP got changed and Mr. Debashis Nanda took charge. The Applicant(s) were asked to file the claims again, which were filed under FORM CA [Refer Annexure-A4 (Colly) at Page no. 50 of the Application].
 - Further, the Resolution professional vide its mail order dated 27.10.2021 directed the applicants to file their claim under Form C [Refer Annexure-A5 (Colly) at Page no. 55 of the Application] without informing them the implications of the same. The Applicants without knowing the implications again in compliance of the directions filed FORM C [Refer Annexure-A6 (Colly) at Page no. 57 of the Application].
 - After the proposed resolution plans were brought before the Applicants, the negative implication of filing their claims under Form C was revealed wherein the applicants were being treated as unsecured creditors in contrary to the other homebuyers on the basis of Form C and were being provided with either haircuts or with the units in their name after extra payment of 50% of the present market value of the unit.
 - Due to the discrimination, the applicants again filed form CA with the resolution professional requesting him to accept the same and treat the applicant(s) as Allottees under class like the other homebuyers. [Refer Annexure-A9 (Colly) at Page no. 77 of the Application], however no reply was received from Resolution professional, which is against the laws as laid down via various precedents.
3. That it was on account of this discrimination meted out to the applicant(s) by the resolution professional, for being treated as unsecured financial creditors and not allottees under class, that the resolution applicant(s) were providing them the minimal reliefs as compared to the other homebuyers without a RERA order.
4. That while one of the resolution applicant provided to pay the applicant(s) after the haircuts, the other resolution applicant although agreed to give the possession of the unit purchased but with 50% additional payment of the unit as per the current market value; whereas the other Allottees under class in every of the plan enjoyed the possession of the unit with adjustment of the already paid amount to the corporate debtor.
5. In this regard, the following points are submitted on behalf of applicants allottees:
- a) That the RERA order or the recovery certificate issued by UPRERA have not be satisfied/honored, hence the applicants would still lie in the position of an Allottee of the corporate debtor as defined in section 2(d) of the Real Estate (Regulation & Development) Act, 2016. That is to say, since no money was refunded to the applicant(s), their allotment against which the money

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- was advanced to the corporate debtor remained intact and thus their status remained the same.
- b) It is further submitted that when any financial institution/Bank or any operational creditor get an order in their favor from any authority or court of law or any Tribunal, the same does not affect their actual status of being a lender or operational creditor, then why the discrimination is with the homebuyers only.
 - c) This kind of discrimination would boost the defaults by builders and allottees would refrain from approaching the court. This interpretation is against the constitutional rights of legal remedy.
 - d) That it was the resolution professional himself who had mailed the applicant(s) to file their claims under FORM C, but the resolution professional neither did gave any reason behind the same nor provided any clarification against the final outcome of the revised claim form.
 - e) Furthermore, upon filing the claim, selection of category and amount of claim accepted both are separate things. If the Resolution Professional was not satisfied by the amount of claim filed, then he would have accepted another amount as claim however changing the category is not justified.
 - f) The resolution professional being an officer of the court and being appointed for the resolution/restructure of a distress/insolvent corporate debtor should act in such a way so as to provide relief to the creditors of the corporate debtor who otherwise were left in high & dry; which is also the aim of the Insolvency & Bankruptcy Code (As amended upto date), 2016.
 - g) That only assuming and not accepting, that in case the applicant(s) would have filed their claims by concealing or not attaching their RERA decrees and recovery certificate, even in that case the resolution professional would have objected to the same and rejected the claims. Thus, the resolution professional himself should have provided a solution to the grievance of the applicant(s) when a mail regarding the same was sent to him dated 16.03.2022 [Refer Annexure-A9 (Colly) at Page no. 77 of the Application] by all the applicants.
 - h) The Aggrieved Applicant(s) / Allottees who had approached Honourable UP Rera Court against the continued Contractual default of Builder and got a decree in their favour, should not be discriminated and penalised for approaching the Court for protection of their / Allottee's rights.
 - i) Furthermore, the trouble of the applicants becomes more grave by the fact that the loans procured by them against the purchase of the units still remain a burden on the applicants, whereas the units are nowhere in question due to the discrimination so meted out by the resolution professional.

6. Further the law with regards to the status of a homebuyer having a RERA order in their favor has been clarified by the Hon'ble Chennai Bench of National Company Law Tribunal in the case of Sunitha Venkatesh vs. Oragadam City Developers Pvt. Ltd., IBA/1370/2019 vide order dated 11.02.2022, held that:

"17. An award passed by the arbitrator under the Arbitration & Conciliation Act, 1996 would also qualify to be a 'decree'. However, merely because a person has obtained a decree, the same would not change the nature of transaction over which the decree was passed. It is significant to note here that a decree can be obtained both for an 'operational debt' and also for a 'financial debt'. A decree of a court can be relied on as supporting document in order to prove that the amount is due and payable, however it cannot at any point of time relied on to show that a person is an operational creditor or financial creditor. Further a decree cannot change the essence and nature of a transaction.

18. In the present case, from the order obtained from RERA it is evident that the Applicant herein is an 'allottee' of a Real Estate project and the Applicant herein under the pretext that he is decree holder is trying to get away from the glitches of an allottee....."

7. Thus, in view of the above explained facts and circumstances, it is most respectfully prayed that this Hon'ble Tribunal may consider the plight of the applicants who have nurtured the hope of getting a roof on their head and invested their lifetime earnings with the corporate debtor which are being further prejudiced by the resolution profession on account of the discrimination being meted out to them.

4. The respondent has filed the written submissions and the scanned copy of which are reproduced below:



SHORT WRITTEN SUBMISSIONS ON BEHALF OF RESPONDENT I.E
RESOLUTION PROFESSIONAL OF THE CORPORATE DEBTOR IN
COMPLIANCE OF THE ORDER DATED 11.04.2022 PASSED BY THIS
HON'BLE TRIBUNAL

Most Respectfully Showeth:

1. That the present application has been filed by 5 joint applicants who are RERA Decree holders getting decree in their favour for refund of their principal along with interest, for seeking directions of this Hon'ble Tribunal for admission of their claim in the category of Homebuyers i.e under Form CA (creditors in class).
2. That the respondent after receiving the claims from the applicants, duly scrutinised the documents as provided by the applicants along with their claim form and found that all these applicants had approached RERA Authority for refund of their claim paid against the booking of their respective apartments clearly signifying surrender of their flats and getting money in lieu thereof, which they had deposited.
3. That the respondent while examining the RERA decree order passed in favor of the applicants dated 15.09.2020 noted that the RERA Authority had an order directed corporate debtor "to ensure to refund the principle amount deposited by the complainant along with MCLR+1 percent annual interest from the date of deposing amount till the date of payment, in 5 monthly instalments from the date of uploading of this order on the portal" (Refer Page 24, 25, 65, 66, 100,101,119, 120, 142 & 143 of Additional affidavit filed by applicants)
4. That the respondent after examining the said RERA Decree issued email dated 27.10.2021 to applicants, informed that since they have filed execution of the order dated 15.09.2020 and subsequently the RERA Authority had passed a Recovery Certificate for refund of total amount along with interest, same respondent is not in position to admit their claim at par with other homebuyers and advised to submit claim form under the category of Form-C.(Refer Page 55 of the application)
5. That the applicants after due consideration filed their claim under the category of Form-C and applicant accordingly accepted their claims in line with the directions given in their RERA Recovery certificate.



6. That respondent after duly admitting the claims of applicants, updated the constitution of CoC and were given respective voting rights in the CoC. Since then, applicants have attended the all CoC meetings and took decisions of respective resolutions put for voting time to time.
7. That the respondent in the 9th CoC meeting, informed the members of CoC that the respondent is in receipt of three resolution plans from respective PRAs and after due deliberations members of CoC were of opinion that an opportunity shall be given to all the 3 PRAs to submit revised resolution plan on or before 05.03.2022. The two of the present applicants have attended the 9th CoC meeting whose presence is also recorded in the minutes of 9th meeting of creditors. **(Refer Page 100 of the application)**
8. That on 05.03.2022 after receipt of the revised resolution plan, the respondent circulated the same to CoC members and to maintain transparency in the process of approval of plan, got initials of Secured creditor (Canara Bank), Authorised Representative of homebuyers and Mr. Vishal Chelani (one of the applicants in the present application) on each resolution plan and then the matter was put for e-voting for approval of resolution plan. It is pertinent to mention here that the present applicants did not object regarding their status as unsecured financial creditors from the date of admission of their claims till the approval of Resolution Plan.
9. That the present applicants being dissatisfied with their treatment under the Resolution Plan as approved, filed the present application seeking directions to reverse their status from unsecured financial creditor to homebuyers which is nothing but a clear abuse of due process of law and which clear intend to delay the process of CIRP.
10. That the High Court of Tripura in the matter of Sri Subhakar Bhowmik v. Union of India & Anr. Vide its judgment dated 14.03.2022 in Para 17 and 18 held that *"Financial creditors who have large exposure to a corporate debtor therefore get the first preference, followed by operational creditors, who are also interested in contained operations and therefore the revival of the corporate debtor. A decree holder on the other hand, holds a decree as a result of crystallizing and determining the dispute through an adversarial process of litigation. The corporate insolvency resolution process, as has been settled by the Hon'ble Apex court in the matter of Swiss Ribbons (supra), is not an adversarial process. To put the steering wheel of a non-adversarial process to revive a corporate debtor, in the hands of adversarial claimant, would defeat the very purpose of the IBC"*
11. That the said order went into appeal before Hon'ble Supreme Court through special leave to appeal (C) No. 6104/2022 in the matter of Subhakar Bhowmik v. Union of India & Anr. and the Hon'ble Supreme Court vide its order dated 11.04.2022 held that *"We are not inclined to interfere with the impugned judgment. The special leave petition is dismissed"*
12. That therefore in light of above judgments, the applicants cannot be treated at par with other homebuyers and by way of filing this application they have misused and are attempting to waste a substantial time of this Hon'ble Adjudicating Authority in the litigation.
13. That the respondent humbly, therefore submits that he has acted in an unbiased manner while verifying and admitting the claims by following due process of law, and the applicants were also satisfied and agreeable with their treatment under the category of Form-C till the approval of Resolution Plan. However, it is beyond knowledge of the respondent that why the dispute has arisen at this point of time regarding their treatment as Homebuyers.
14. That in the interest of justice, the respondent submits that the present application be dismissed for lack of merit.

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In

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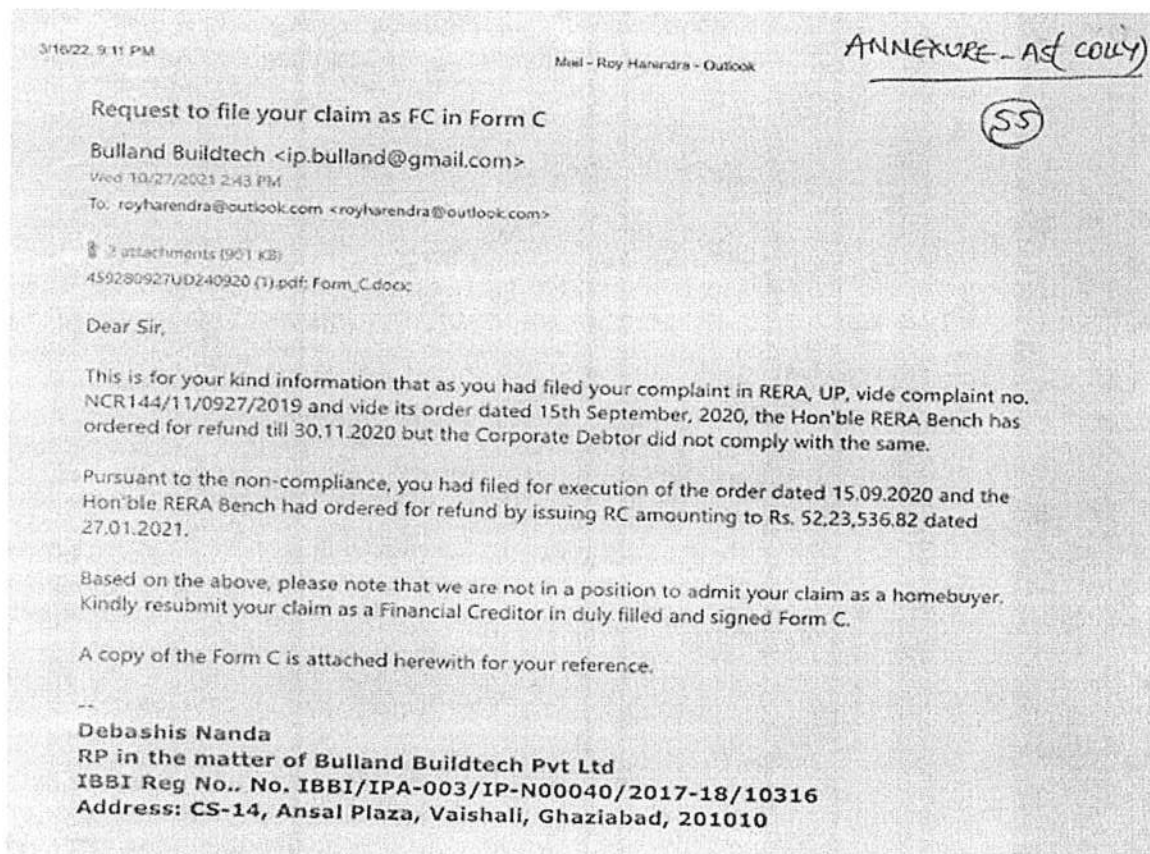
1

5. We have heard the Ld. Counsel appearing for the applicants as well as the Resolution Professional and perused the averments made in the application. Ld. Counsel for the applicant submits that the payment was made to Corporate Debtor against the flat Purchased by the applicants. He further submits when the Corporate Debtor defaulted the terms of the builders buyer agreement and failed to handover the possession of the flat then the applicant had filed a complaint before the Uttar Pradesh Real Estate Regulatory Authority, Gautam Budh Nagar for the redressal and accordingly, a decree has been passed in favour of the applicants. He further submits that in view of the order passed a recovery certificate was issued to the applicant by the Ld. UPRERA. He further submits that after the initiation of the CIRP against the Corporate Debtor, the applicant has submitted their claim in Form-CA firstly before the IRP Mr. Mahesh Taneja and later, before Mr. Debashis Nanda, who was replaced as IRP vide order dated 03.09.2021. He further submits that the Resolution Professional has treated the applicant as a Financial Creditor other than the class of creditors on the basis of the decree passed by the Ld. UPRERA. He further submits that the applicants are originally an allottee. He further submits that the RP has treated these applicants as the Financial Creditor but not under the category the class of creditors. Ld. Counsel of the applicants has also raised all the facts and law referred to in the written submissions.

6. Ld. Counsel of the respondent /RP has also raised all the facts and law referred to in the written submissions.

7. Before considering the submissions, at this juncture, we would like to refer to the Email dated 27.10.2021, by which; the RP had communicated the applicants regarding the admission of claim under the category of the Financial Creditor other than the class of creditors. The scanned copy of the same is reproduced below:-





8. On perusal of the Email dated 27.10.2021, we observe that the reason assigned by the Resolution Professional for not considering the claim of these applicants under the category of class of creditors, rather ready to consider the claim as a Financial Creditor other than the class of creditors is that the Ld. UPRERA Bench has ordered for refund by issuing recovery certificate amounting to Rs. 52,23,536.82/- dated 27.01.2021. At this juncture, we would also like to refer to this fact that after receiving the Email dated 27.10.2021, all the applicants had also submitted their claim in Form-C placed from Page 57 to 73. We further observe that thereafter the Resolution Professional had considered their claim submitted in Form-C. At this juncture, we would like to refer to the Email dated 02.03.2022 and form C submitted by the applicants placed from Page 56 to 73 of the application. The scanned copy of the same are reproduced below:-

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M Gmail Suresh Kumar Dogra <sureshkumardogra@gmail.com>

Reminder: Request to file your claim as FC in Form C
2 messages

Suresh Kumar Dogra <sureshkumardogra@gmail.com> Thu, Mar 3, 2022 at 4:17 PM
To: Bulland Buildtech <ip.buland@gmail.com>
Cc: Rajni Thakur <thakurrajni774@gmail.com>, ankit Singh <login@gmail.com>, vishal brainvita <vishal.brainvita@gmail.com>

Gentle reminder pls.

On Wed, 2 Mar 2022 at 12:05 AM, Suresh Kumar Dogra <sureshkumardogra@gmail.com> wrote:
Dear Mr. Debashis Nanda,

This is regarding Flat No. C-2007, Bulland Elevates, Greater Noida West (UP).

As per your request, I had re-submitted the said documents required to add me as Financial Creditor but was not informed on the implications of it.

As per available information, my amount Proposed to be re-paid is Rs. 5,55,248.84 against Claim Admitted Rs. 50,48,567.00, which is not acceptable pls.

Secondly, I never have given my consent to consider my booked flat as available inventory.

I hereby request to either consider my Claim Admitted amount as the amount Proposed to be re-paid or consider my claim as home buyer and give me possession of my flat as planned.

Requesting for your kind consideration and kind response pls.

Regards,
Suresh Kumar Dogra
Contact +91-9818911147

On Sat, Oct 30, 2021 at 11:53 AM Bulland Buildtech <ip.buland@gmail.com> wrote:
Dear Sir,

This is for your kind information that as you had filed your complaint in RERA, UP, vide complaint no. NCR144/03/52028/2020 and vide its order dated 08/12/2020, the Hon'ble RERA Bench has ordered for refund till 31/01/2021 but the Corporate Debtor did not comply with the same.

Pursuant to the non-compliance, you had filed for execution of the order dated 08/12/2020 and the Hon'ble RERA Bench had ordered for refund by issuing RC amounting to Rs. 50,48,568.78 dated 24/07/2021.

Based on the above, please note that we are not in a position to admit your claim as a homebuyer. Kindly resubmit your claim as a Financial Creditor in duly filed and signed Form C.

A copy of the Form C is attached herewith for your reference.

--
Debashis Nanda
RP in the matter of Bulland Buildtech Pvt Ltd
IBBI Reg No., No. IBBI/IPA-003/IP-N00040/2017-18/10316
Address: CS-14, Ansal Plaza, Vaishali, Ghaziabad, 201010

--
Regards,

IA No. 1387/2022
In
Company Petition (IB) No. 1744/ND/2019



ANNEXURE-AG
(COLLY)

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FORM C

SUBMISSION OF CLAIM BY FINANCIAL CREDITORS

(Under Regulation 8 of the Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) Regulations, 2016)

27th Oct 2021

From:

Vishal Chelani & Bhavani Chelani

Property Address: C-806, 8TH FLOOR, BULLAND ELEVATES TOWER C, GN-D1, SECTOR-14C, GREATER NOIDA- 201308

Current Address: K-411A, Gaur Green City, Vohhar Road, Indirapuram, Ghaziabad - 201012, UP.

To:

The Interim Resolution Professional / Resolution Professional,
Priority Matters, In the matter of Bulland Elevates Pvt Ltd, IRR/Seq No. IRR/PA-001/IR-NOS/2017-18/10215,
Address: C-1A, Arera Plaza, Vohhar, Ghaziabad, 201012.

Subject: Submission of claim and proof of claim for Flat No. C-806, Bulland Elevates.

Madam/Sir,



[Name of the financial creditor], hereby submits this claim in respect of the corporate insolvency resolution process of [name of corporate debtor]. The details for the same are set out below:

Relevant Particulars	
1. Name of the financial creditor	Vishal Chelani & Bhavani Chelani
2. Identification number of the financial creditor (If an incorporated body, provide identification number and proof of incorporation. If a partnership or individual provide identification records* of all the partners or the individual)	Individual PAN: ABUTPC5408C & AHSFC1475E
3. Address and email address of the financial creditor for correspondence	K-411A, Gaur Green City, Vohhar Road, Indirapuram, Ghaziabad - 201012, UP. Email: vishal.chelani@pmail.com Mob: 9650598262
4. Total amount of claim (including any interest as at the insolvency commencement date)	45,61,887.85 (+9.35% interest from Sep 2020 - Apr 21) = 48,99,370/-
5. Details of documents by reference to which the debt can be substantiated	Builder Buyer Agreement, Payment Receipts, Tripartite Agreement and UP Rera Recovery Certificate.
6. Details of how and when debt incurred	Please refer attached Builder Buyer Agreement, Payment Receipts, Tripartite Agreement and UP Rera Recovery Certificate for the payments done to Bulland Elevates since 2011.
7. Details of any mutual credit, mutual debts, or other mutual dealings between the corporate debtor and the creditor which may be set-off against the claim	NA
8. Details of any security held, the value of the security, and the date it was given	NA

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Relevant Particulars	
9. Details of the bank account to which the amount of the claim or any part thereof can be transferred pursuant to a resolution plan.	Account holder: VISHAL CHELANI Bank Name: HDFC BANK LTD A/c Number: 60621140001393 IFSC Code: HDFC0600062 Branch Address: E-1/57, ARERA COLONYScheme OF CAPITAL PROJECT, BHOPAL, MADHYA PRADESH-462016
10. List of documents attached to this claim in order to prove the existence and non-payment of claim due to the financial creditor.	Builder Buyer Agreement, Payment Receipts, Tripartite Agreement and UP Recd Recovery Certificate.
(Signature of financial creditor or person authorised to act on his behalf) 	
[Please enclose the authority if this is being submitted on behalf of the financial creditor]	
Name in BLOCK LETTERS: VISHAL CHELANI	
Position with or in relation to creditor: SELF	
Address of person signing: K-4118, Gaur Green City, Vidhaya Road, Indirapuram, Ghaziabad - 201012, UP.	
*PAN number, passport, AADHAAR Card or the identity card issued by the Election Commission of India.	
DECLARATION	
I, VISHAL CHELANI & BHAVANA CHELANI , currently residing at K-4118, Gaur Green City, Vidhaya Road, Indirapuram, Ghaziabad - 201012, UP , do hereby declare and state as follows: -	
<ol style="list-style-type: none"> 1. M/S BULLAND BUILDTECH PVT LTD, the corporate debtor was, at the insolvency commencement date, being the 22nd day of MARCH 2021, actually indebted to me for a sum of Rs. 45,61,887.85 (+ 9.35% interest from Sep 2021 - Aug 2021) = 48,09,176/-. 2. In respect of my claim of the said sum or any part thereof, I have relied on the documents specified below: Builder Buyer Agreement, Payment Receipts and UP Recd Recovery Certificate. 3. The said documents are true, valid and genuine to the best of my knowledge, information and belief and no material facts have been concealed therefrom. 4. In respect of the said sum or any part thereof, neither I, nor any person, by my order, so my knowledge or belief, for my use, had or received any manner of satisfaction or security whatsoever, save and except the following: (Please state details of any mutual credits, mutual debts, or other mutual dealings between the corporate debtor and the creditor which may be set-off against the claim). 5. I am / I am not a related party of the corporate debtor, as defined under section 5 (24) of the Code. 6. I am eligible to give voting instruction to the authorized representative by virtue of proviso to section 21 (2) of the Code even though I am a related party of the corporate debtor. 	
Date: 27th Oct 2021	
Place: Ghaziabad	
	(Signature of the claimant)

IA No. 1387/2022

In

Company Petition (IB) No. 1744/ND/2019



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VERIFICATION

I, VISHAL CHELANI & BHAVANA CHELANI the claimant hereinabove, do hereby verify that the contents of this proof of claim are true and correct to my knowledge and belief and no material fact has been concealed therefrom.

Verified at GHAZIABAD on this 27th day of Oct. 2021.

(Signature of claimant)

[Note: In the case of company or limited liability partnership, the declaration and verification shall be made by the director/manager/secretary/designated partner and in the case of other entities, an officer authorized for the purpose by the entity.]

IA No. 1387/2022

In

Company Petition (IB) No. 1744/ND/2019

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FORM C
SUBMISSION OF CLAIM BY FINANCIAL CREDITORS
 (Under Regulation 8 of the Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) Regulations, 2016)

25/10/2021

From
 Sh. Harendra Kumar Roy & Mrs. Nikita Roy
 A-402, Amba G Residency
 Ahinsa Khand-2
 Indirapuram
 Ghaziabad U.P.

To
 The Resolution Professional,
 Mr. Debashish Nanda
 CS-14, Ansal Plaza, Vaishali, Ghaziabad-201010
 Email : ip.bulland@gmail.com / dnanda.ema@gmail.com

Subject: Submission of claim and proof of claim in Form "C". (Earlier Form CA was submitted)

Madam/Sir,

We, Sh. Harendra Kumar Roy & Mrs. Nikita Roy, hereby submits this claim in respect of the corporate insolvency resolution process of Bulland Buildtech Pvt. Ltd. The details for the same are set out below:

Relevant Particulars	
1. Name of the financial creditor	Sh. Harendra Kumar Roy & Mrs. Nikita Roy
2. Identification number of the financial creditor (If an incorporated body, provide identification number and proof of incorporation. If a partnership or individual provide identification records* of all the partners or the individual)	Individuals (copy of adhar card is attached)
3. Address and email address of the financial creditor for correspondence	A-402, Amba G Residency, Ahinsa Khand-2, Indirapuram Ghaziabad U.P. Email: ROYHARENDRA@OUTLOOK.COM
4. Total amount of claim (including any interest as at the insolvency commencement date)	Total amount of Rs.52,56,116 as on 22 nd March 2021. Out of this Rs.52,23,536.82/- as on 31.01.2021 as per Recovery certificate issued by Honorable Rera Court and Rs.32,578.82 as Interest from 1 st February 2021 till 22 nd March 2021 at rate 8.3 % per Annum on Principal amount of Rs.

IA No. 1387/2022
 In
 Company Petition (IB) No. 1744/ND/2019

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Relevant Particulars	
	29,23,847.00 as per Recovery Certificate.
5. Details of documents by reference to which the debt can be substantiated	<p>1 Final order/judgment dated 15.09.2020 passed by Hon'ble Uttar Pradesh Real Estate Regulatory Authority.</p> <p>2 Recovery Certificate dated 27.01.2021 issued by Hon'ble Uttar Pradesh Real Estate Regulatory Authority to District Magistrate, Gautam Buddha Nagar, UP against the corporate debtor due to its default to comply with order dated 15.09.2020.</p>
6. Details of how and when debt incurred	<p>The financial creditors are husband & wife. Vide allotment letter dated 17.11.2010, the corporate debtor/builder allotted a residential apartment no.504 on Fifth Floor, admeasuring 1535 sq. ft., Block-E for Total approximate Value of Rs.25,60,880 with further increase or decrease in cost as per actual area in its project namely BULLAND ELEVATS.</p> <p>Over a period of time, the financial creditors duly made payment of Rs.29,23,847.00 to corporate debtor as per its demands.</p> <p>As per the terms of allotment letter /clause 11 & 13, the corporate debtor/builder was to complete construction and handover possession of said apartment within 36 months with further extension of 6 months. The period of 36</p>

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Relevant Particulars	
	<p>months expired on 17.11.2013, however the corporate debtor failed to complete the project and handover possession of said apartment.</p> <p>Vide complaint no. NCR144/11/0927/2019, the financial creditor approached Hon'ble Uttar Pradesh Real Estate Regulatory Authority seeking refund of amount paid to corporate debtor along with delay penalty. Vide order dated 15.09.2020, complaint was allowed and the corporate debtor was directed to refund the entire amount along with delay penalty/interest by 30.11.2020. The corporate debtor failed to refund the amount. The financial creditor filed execution and Recovery certificate dated 27.01.2021 has been issued by the Hon'ble Uttar Pradesh Real Estate Regulatory Authority for a total sum of Rs.52,23,536.82 as on 31.01.2021 with further direction to pay interest at the rate of 8.30 % from 01.02.2021 onwards on principal amount of Rs.29,23,847.00</p>
7. Details of any mutual credit, mutual debts, or other mutual dealings between the corporate debtor and the creditor which may be set-off against the claim	Not Applicable
8. Details of any security held, the value of the security, and the date it was given	Not Applicable
9. Details of the bank account to which the amount of the claim or any part thereof can be transferred pursuant to a resolution plan	Joint Account no. 159560626698



Relevant Particulars	
	RTGS/NEFT/ IPSC: INDB0000588 Bank name: Industrial Bank Branch Address: Sector 62, Noida
10. List of documents attached to this claim in order to prove the existence and non-payment of claim due to the financial creditor	1. Allotment letter dated 17.11.2010. 2. Final order/judgment dated 15.09.2020 passed by Hon'ble Uttar Pradesh Real Estate Regulatory Authority. 3. Recovery Certificate dated 27.01.2021 issued by Hon'ble Uttar Pradesh Real Estate Regulatory Authority to District Magistrate, Gautam Budh Nagar, UP against the corporate debtor due to its default to comply with order dated 15.09.2020.
(Signature of financial creditor or person authorised to act on his behalf) (Please enclose the authority if this is being submitted on behalf of the financial creditor)	
Name in BLOCK LETTERS HARENDRA KUMAR ROY & NIKITA ROY	
Position with or in relation to creditor Self	
Address of person signing A-402, AMBA G RESIDENCY AHINSA KHAND-2 INDRAPURAM GHAZIABAD UP	

*PAN number, passport, AADHAAR Card or the identity card issued by the Election Commission of India.

DECLARATION

I, We, Harendra Kumar Roy & Mrs. Nikita Roy, currently residing at A-402, Amba G Residency, Ahinsa Khand -2, Indrapuram, Ghaziabad, UP, do hereby declare and state as follows: -

1. Bulland Buildtech Pvt. Ltd, the corporate debtor was, at the insolvency commencement date, being 22nd day of March, 2021 actually indebted to me for a sum of Rs. 52,56,116.
2. In respect of my claim of the said sum or any part thereof, I have relied on the documents specified below:
 - A. Final order/judgment dated 15.09.2020 passed by Hon'ble Uttar Pradesh Real Estate Regulatory Authority.
 - B. Recovery Certificate dated 27.01.2021 issued by Hon'ble Uttar Pradesh Real Estate Regulatory Authority to District Magistrate, Gautam Budh Nagar, UP against the corporate debtor due to its default to comply with order dated 15.09.2020.
3. The said documents are true, valid and genuine to the best of my knowledge, information and belief and no material facts have been concealed therefrom.
4. In respect of the said sum or any part thereof, neither I, nor any person, by my order, to my knowledge or belief, for my use, had or received any manner of satisfaction or security whatsoever, save and except the following: NIL.
5. I am / I am not a related party of the corporate debtor, as defined under section 5 (24) of the Code.
6. I am eligible to join committee of creditors by virtue of proviso to section 21 (2) of the Code even though I am a related party of the corporate debtor.

Date: 26/10/2021 Ghaziabad
Place: Ghaziabad

(Signature of the claimant)

VERIFICATION

We, Harendra Kumar Roy & Mrs. Nikita Roy the claimant hereinabove, do hereby verify that the contents of this proof of claim are true and correct to my knowledge and belief and no material fact has been concealed therefrom.

Verified at Ghaziabad ... on this 26th day of October, 2021

(Signature of claimant)

IA No. 1387/2022
In
Company Petition (IB) No. 1744/ND/2019

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FORM C
SUBMISSION OF CLAIM BY FINANCIAL CREDITORS
 (Under Regulation 8 of the Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) Regulations, 2016)

1st Nov, 2021

From

Suresh Kumar Dogra
 R/O Anu-Khurd,
 PO & Dist. Hamirpur, (HP) - 177001

To

The Interim Resolution Professional / Resolution Professional
 Debashis Nanda
 RP in the matter of Bulland Buildtech Pvt Ltd
 IBBI Reg No., No. IBBI/IPA-003/IP-N00040/2017-18/10316
 Address: CS-14, Ansal Plaza, Vaishali, Ghaziabad, 201010

Subject: Submission of claim and proof of claim.

Madam/Sir,

Suresh Kumar Dogra, hereby submits this claim in respect of the corporate insolvency resolution process of Bulland Elevats. The details for the same are set out below:

Relevant Particulars		
(1)	(2)	(3)
1.	Name of the financial creditor	Suresh Kumar Dogra
2.	Identification number of the financial creditor (If an incorporated body, provide identification number and proof of incorporation. If a partnership or individual provide identification records* of all the partners or the individual)	PAN Card Aadhaar Card
3.	Address and email address of the financial creditor for correspondence	Suresh Kumar Dogra R/O Anu-Khurd, PO & Dist. Hamirpur, (HP) -177001 sureshkumardogra@gmail.com
4.	Details of claim, if it is made against corporate debtor as principal borrower: (i) Amount of claim (ii) Amount of claim covered by security interest, if any (Please provide details of security interest, the value of the security, and the date it was given) (iii) Amount of claim covered by guarantee, if any (Please provide details of guarantee held, the value of the guarantee, and the date it was given) (iv) Name and address of the guarantor(s)	Rs. 5048566.78/- (Rs. Fifty Lakh Forty Eight Thousand Five Hundred Sixty Six Rupees and Seventy Eight paise only)
5.	Details of claim, if it is made against corporate debtor as guarantor:	NA


IA No. 1387/2022

In

Company Petition (IB) No. 1744/ND/2019

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	(i) Amount of claim (ii) Amount of claim covered by security interest, if any (Please provide details of security interest, the value of the security, and the date it was given) (iii) Amount of claim covered by guarantee, if any (Please provide details of guarantee held, the value of the guarantee, and the date it was given) (iv) Name and address of the principal borrower	
6.	Details of claim, if it is made in respect of financial debt covered under clauses (h) and (i) of sub-section (8) of section 5 of the Code, extended by the creditor: (i) Amount of claim (ii) Name and address of the beneficiary	NA
7.	Details of how and when debt incurred	Booking Amount/TMI of Principal & Interest to Bank
8.	Details of any mutual credit, mutual debts, or other mutual dealings between the corporate debtor and the creditor which may be set-off against the claim	3rd Party Agreement & Acceptance Letter by Corporate Creditor
9.	Details of the bank account to which the amount of the claim or any part thereof can be transferred pursuant to a resolution plan	ICICI Bank Ltd. A/C No. 038601523096 IFSC Code ICIC0000386
 (Signature of financial creditor or person authorised to act on its behalf) [Please enclose the authority if this is being submitted on behalf of the financial creditor]		
Name in BLOCK LETTERS: SURESH KUMAR DOGRA		
Position with or in relation to creditor: Self		
Address of person signing: R/O Anu-Khurd, PO & Distt. Hamirpur, (HP) - 177001		
*PAN, passport, AADHAAR Card or the identity card issued by the Election Commission of India.		

DECLARATION

I, Suresh Kumar Dogra, currently residing at R/O Anu-Khurd, PO & Distt. Hamirpur, (HP) - 177001, do hereby declare and state as follows: -

- Suresh Kumar Dogra, the corporate debtor was, at the insolvency commencement date, being the 1st day of November, 2021, actually indebted to me for a sum of Rs. 5048566.78/-
- In respect of my claim of the said sum or any part thereof, I have relied on the documents specified below: [Please list the documents relied on as evidence of claim].
 - Advance Receipts/Payment
 - Receipts/EMI Payment
 - Schedule & Bank Statement



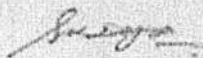
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• RERA Order

3. The said documents are true, valid and genuine to the best of my knowledge, information and belief and no material facts have been concealed therefrom.
4. In respect of the said sum or any part thereof, neither I, nor any person, by my order, to my knowledge or belief, for my use, had or received any manner of satisfaction or security whatsoever, save and except the following:
[Please state details of any mutual credit, mutual debts, or other mutual dealings between the corporate debtor and the creditor which may be set-off against the claim].
5. I undertake to update my claim as and when the claim is satisfied, partly or fully, from any source in any manner, after the insolvency commencement date.
6. I am / I am not a related party of the corporate debtor, as defined under section 5 (24) of the Code.
7. I am eligible to join committee of creditors by virtue of proviso to section 21 (2) of the Code even though I am a related party of the corporate debtor.

Date: 1st Nov, 2021

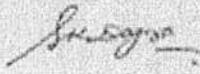
Place: Noida


(Signature of the claimant)

VERIFICATION

I, Suresh Kumar Dogra the claimant hereinabove, do hereby verify that the contents of this proof of claim are true and correct to my knowledge and belief and no material fact has been concealed therefrom.

Verified at Noida on this 1st day of November, 2021


(Signature of claimant)

[Note: In the case of company or limited liability partnership, the declaration and verification shall be made by the director/manager/secretary designated partner and in the case of other entities, an officer authorised for the purpose by the entity.]



FORM C
SUBMISSION OF CLAIM BY FINANCIAL CREDITORS
 (Under Regulation 8 of the Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) Regulations, 2016)

[1/11/2021]

From : Rohan Kumar

[Flat -304, Block D1, SNN Raj Greenbay, 1st Main Road, Near Tech Mahindra, Electronic City Phase - 2, Bangalore - 560068, Karnataka]

To

The Interim Resolution Professional / Resolution Professional

[Mr. Debashis Nanda

RP in the matter of Bulland Buildtech Pvt Ltd

IBBI Reg No. No. IBBI/IPA-003/IP-N00040/2017-18/10316

Address: CS-14, Ansal Plaza, Vaishali, Ghaziabad, 201010]

Subject: Submission of claim and proof of claim.

Madam/Sir,


Rohan Kumar, hereby submits this claim in respect of the corporate insolvency resolution process of Bulland Buildtech Private Limited]. The details for the same are set out below:

Relevant Particulars		
(1)	(2)	(3)
1.	Name of the financial creditor	Rohan Kumar Pratishtha Sawhney
2.	Identification number of the financial creditor (If an incorporated body, provide identification number and proof of incorporation. If a partnership or individual provide identification records* of all the partners or the individual)	Rohan Kumar Aadhar Number: 740720047454 Pratishtha Sawhney Aadhar Number: 915527312563
3.	Address and email address of the financial creditor for correspondence	FLAT -304, BLOCK D1, SNN RAJ GREENBAY, 1 ST MAIN ROAD, NEAR TECH MAHINDRA, ELECTRONIC CITY PHASE - 2, BANGALORE - 560068, KARNATAKA
4.	Details of claim, if it is made against corporate debtor as principal borrower: (i) Amount of claim (ii) Amount of claim covered by security interest, if any (Please provide details of security interest, the value of the security, and the date it was given) (iii) Amount of claim covered by guarantee, if any	Rs..57,91,371.69

IA No. 1387/2022

In

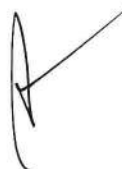
Company Petition (IB) No. 1744/ND/2019

	(Please provide details of guarantee held, the value of the guarantee, and the date it was given) (iv) Name and address of the guarantor(s)	
5.	Details of claim, if it is made against corporate debtor as guarantor: (i) Amount of claim (ii) Amount of claim covered by security interest, if any (Please provide details of security interest, the value of the security, and the date it was given) (iii) Amount of claim covered by guarantee, if any (Please provide details of guarantee held, the value of the guarantee, and the date it was given) (iv) Name and address of the principal borrower	NA
6.	Details of claim, if it is made in respect of financial debt covered under clauses (h) and (i) of sub-section (8) of section 5 of the Code, extended by the creditor: (i) Amount of claim (ii) Name and address of the beneficiary	NA
7.	Details of how and when debt incurred	29 TH APRIL 2019 AS PER DATE ON RERA ORDER
8.	Details of any mutual credit, mutual debts, or other mutual dealings between the corporate debtor and the creditor which may be set-off against the claim	NO
9.	Details of the bank account to which the amount of the claim or any part thereof can be transferred pursuant to a resolution plan	HDFC BANK LTD A-1, Sector-19 Noida Gautam Buddha Nagar Uttar Pradesh IFSC: HDFC0001223 Account Number: 50100044397403
 (Signature of financial creditor or person authorised to act on its behalf) [Please enclose the authority if this is being submitted on behalf of the financial creditor]		
Name: ROHAN KUMAR and PRATISHTHA SAWHNEY		
Position with or in relation to creditor: SELF		
Address of person signing: Flat -304, Block D1, SNN Raj Greenbay, 1 st Main Road, Near Tech Mahindra, Electronic City Phase - 2, Bangalore - 560068, Karnataka		
*PAN, passport, AADHAAR Card or the identity card issued by the Election Commission of India.		

IA No. 1387/2022

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Company Petition (IB) No. 1744/ND/2019



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DECLARATION

I, Rohan Kumar and Pratishtha Sawhney, currently residing at *Flat -304, Block D1, SNN Raj Greenbay, 1st Main Road, Near Tech Mahindra, Electronic City Phase - 2, Bangalore - 560068, Karnataka*, do hereby declare and state as follows: -

1. Bulland Buildtech Private Limited, the corporate debtor was, at the insolvency commencement date, being the.....22ndday of.....2021....., actually indebted to me for a sum of Rs.57,91,371.69
2. In respect of my claim of the said sum or any part thereof, I have relied on the documents specified below: Loan Account statement, receipts, Bank account statement (debit).
3. The said documents are true, valid and genuine to the best of my knowledge, information and belief and no material facts have been concealed therefrom.
4. In respect of the said sum or any part thereof, neither I, nor any person, by my order, to my knowledge or belief, for my use, had or received any manner of satisfaction or security whatsoever, save and except the following:
NOT APPLICABLE
5. I undertake to update my claim as and when the claim is satisfied, partly or fully, from any source in any manner, after the insolvency commencement date.
6. I am not a related party of the corporate debtor, as defined under section 5 (24) of the Code.
7. I am eligible to join committee of creditors by virtue of proviso to section 21 (2) of the Code even though I am a related party of the corporate debtor. NOT APPLICABLE

Date: 01/11/2021

Place: Bangalore



(Signature of the claimant)

VERIFICATION

I, Rohan Kumar and Pratishtha Sawhney the claimant hereinabove, do hereby verify that the contents of this proof of claim are true and correct to my knowledge and belief and no material fact has been concealed therefrom.

Verified at ... on this ...1st... day of ...November....., 2021....



(Signature of claimant)

[Note: In the case of company or limited liability partnership, the declaration and verification shall be made by the director/manager/secretary/designated partner and in the case of other entities, an officer authorised for the purpose by the entity.]

IA No. 1387/2022

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Company Petition (IB) No. 1744/ND/2019



(41)

FORM C
SUBMISSION OF CLAIM BY FINANCIAL CREDITORS
 (Under Regulation 8 of the Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) Regulations, 2016)

27/10/2021

From
 Mithlesh Singh & Ankit kumar Singh
 35/11 Vishnupuri Colony,
 Kanpur U.P. 208002

To
 The Interim Resolution Professional / Resolution Professional
 Debashis Nanda
 RP in the matter of Bulland Buildtech Pvt Ltd
 IBBI Reg No. No. IBBI/PA-003/JP-N00040/2017-18/10316
 Address: CS-14, Ansal Plaza, Vaishali, Ghaziabad, 201010

Subject: Submission of claim and proof of claim.

Madam/Sir,

Mithlesh Singh & Ankit kumar Singh, hereby submits this claim in respect of the corporate insolvency resolution process of Bulland Buildtech Pvt Ltd. The details for the same are set out below:


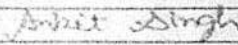
Relevant Particulars		
(1)	(2)	(3)
1.	Name of the financial creditor	Mithlesh Singh & Ankit kumar Singh
2.	Identification number of the financial creditor (If an incorporated body, provide identification number and proof of incorporation. If a partnership or individual provide identification records* of all the partners or the individual)	Mithlesh Singh Addhar no: 796250505173 Ankit Kumar Singh Addhar no.910028321798
3.	Address and email address of the financial creditor for correspondence	35/11 Vishnupuri Colony, Kanpur U.P. 208002 Email: ankitsingh.login@gmail.com
4.	Details of claim, if it is made against corporate debtor as principal borrower: (i) Amount of claim (ii) Amount of claim covered by security interest, if any (Please provide details of security interest, the value of the security, and the date it was given) (iii) Amount of claim covered by guarantee, if any (Please provide details of guarantee held, the value of the guarantee, and the date it was given) (iv) Name and address of the guarantor(s)	INR 69,42,027
5.	Details of claim, if it is made against corporate debtor as guarantor:	N/A

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Company Petition (IB) No. 1744/ND/2019

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	(i) Amount of claim (ii) Amount of claim covered by security interest, if any (Please provide details of security interest, the value of the security, and the date it was given) (iii) Amount of claim covered by guarantee, if any (Please provide details of guarantee held, the value of the guarantee, and the date it was given) (iv) Name and address of the principal borrower	
6.	Details of claim, if it is made in respect of financial debt covered under clauses (ii) and (i) of sub-section (8) of section 5 of the Code, extended by the creditor: (i) Amount of claim (ii) Name and address of the beneficiary	N/A
7.	Details of how and when debt incurred	Home Loan, personal saving & GPF(2014-2015), Payments slips attached & recovery certificate issued by UP KERA attached
8.	Details of any mutual credit, mutual debts, or other mutual dealings between the corporate debtor and the creditor which may be set-off against the claim	N/A (Flat Buyer, Builder Buyer agreement)
9.	Details of the bank account to which the amount of the claim or any part thereof can be transferred pursuant to a resolution plan	SBI Account A.C.Name: Mithlesh Kumari Singh A/c No. 10210256937 IFSC Code: SBIN0008019
(Signature of financial creditor or person authorised to act on its behalf)		
Mithlesh Singh & Ankit kumar Singh  		
Flat Buyer		
35/11 Vishnupuri Colony, Kanpur U.P. 208002		

*PAN, passport, AADHAAR Card or the identity card issued by the Election Commission of India.

DECLARATION

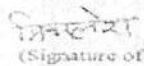
I, Mithlesh Singh & Ankit Kumar Singh, currently residing at 35/11 Vishnupuri Colony, Kanpur U.P. 208002, do hereby declare and state as follows:-

1. Bulland Buildtech Pvt. Ltd., the corporate debtor was, at the insolvency commencement date, being 30/03/2021, actually indebted to me for a sum of Rs. INR 69,42,022.
2. In respect of my claim of the said sum or any part thereof, I have relied on the documents specified below: UPRERA Recovery certificate, UPRERA ORDER, Builder buyer agreement, payments slips, Bank loan details.
3. The said documents are true, valid and genuine to the best of my knowledge, information and belief and no material facts have been concealed therefrom.
4. In respect of the said sum or any part thereof, neither I, nor any person, by my order, to my knowledge or belief, for my use, had or received any manner of satisfaction or

security whatsoever, save and except the following: UPRERA Recovery certificate, UPRERA Order.

5. I undertake to update my claim as and when the claim is satisfied, partly or fully, from any source in any manner, after the insolvency commencement date.
6. I am / I am not a related party of the corporate debtor, as defined under section 5 (24) of the Code.
7. I am eligible to join committee of creditors by virtue of proviso to section 21 (2) of the Code even though I am a related party of the corporate debtor.

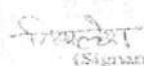
Date: 27/10/2021
Place: Kanpur

 Ankit Singh
(Signature of the claimant)

VERIFICATION

I, Mithlesh Singh & Ankit Kumar Singh the claimant hereinabove, do hereby verify that the contents of this proof of claim are true and correct to my knowledge and belief and no material fact has been concealed therefrom.

Verified at Kanpur on this 27 day of October, 2021

 Ankit Singh
(Signature of claimant)

[Note: In the case of company or limited liability partnership, the declaration and verification shall be made by the director/manager/secretary/designated partner and in the case of other entities, an officer authorised for the purpose by the entity.]

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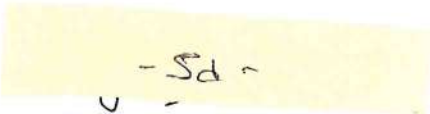


9. On perusal of the documents referred to supra, we observe that the grievance of the applicants are that the amounts claimed by the applicants are not admitted fully rather admitted partly by the resolution professional. Therefore, the applicants have raised this issue and filed this application.

10. At this juncture, we would also like to consider the submissions of the parties. Admittedly, the Ld. UPRERA after considering the prayer of the applicants directed the Corporate Debtor to refund the amount and on the basis of that, the applicants have submitted Form-C and when the entire amount claimed by the applicants was not admitted by the Resolution Professional then the present application is filed by the applicants with a prayer to direct the Resolution Professional to reconsider the claim in Form-CA as Homebuyers.

11. We are unable to accept the contention of the applicants that they may be permitted to file a claim in Form-CA and direction be given to the RP to consider the claim in Form-A. In our considered view, once the Ld. UPRERA has passed a decree directing the Corporate Debtor to refund the amount and in pursuant of that, all the applicants had submitted their claim in Form C, which were duly considered by the respondent/ R.P, and only on the ground that the entire claims of the applicants are not admitted and applicants are treated as a Financial Creditor on the basis of that decree and not as a Creditors of Class, we are unable to accept the submission of the applicants to direct the Resolution Professional to admit their claim in Form-CA.

12. Accordingly, we find, no merit in the application and the **same is dismissed.**


L. N. Gupta
(Member Technical)


Abni Ranjan Kumar Sinha
(Member Judicial)

NATIONAL COMPANY LAW TRIBUNAL: NEW DELHI
SPECIAL BENCH (COURT-II)

IA. 2225/ND/2021 and IA. 2167/ND/2022

IN

Company Petition No. (IB)-1744(ND)/2019

IN THE MATTER OF:

M/s. Canara Bank

...Financial Creditor

Versus

M/s Bulland Buildtech Private Limited

...Corporate Debtor

AND IN THE MATTER OF IA. 2225/ND/2022:

**Mrs. Sunita Aggarwal
D-93B, Near Gulmohar Market,
Sector – 15, Gautam Budh Nagar,
Noida, Uttar Pradesh – 201301**

...Applicant

Versus

**Mr. Debashis Nanda
(Resolution Professional)
M/s. Bulland Buildtech Private Limited
Flat No. C S-14, C Floor, Ansal Plaza,
Vaishali, Ghaziabad, U.P – 201010**

...Respondent

AND

AND IN THE MATTER OF IA. 2167/ND/2022:

**Mr. Mohit Gupta
S/o Sh. Satya Dev Gupta
Gulshan Ikebana, Sector – 143B,
Surajpur, Gautam Budh Nagar,
Uttar Pradesh - 201306**

... Applicant

Versus

**Mr. Debashis Nanda
(Resolution Professional)
M/s. Bulland Buildtech Private Limited
Flat No. C S-14, C Floor, Ansal Plaza,
Vaishali, Ghaziabad, U.P – 201010**

...Respondent

Order Delivered on: 08.06.2022

SECTION: Section 60(5) of IBC 2016

CORAM :

DR. P. S. N. PRASAD, HON'BLE MEMBER (JUDICIAL)

SH. L. N. GUPTA, HON'BLE MEMBER (TECHNICAL)

PRESENT:

For the Applicant : Adv. Rajat Chaudhary in IA-2225/2022
Adv. Viplav Acharya in IA-2167/2022
For the Respondent : Adv. Dinesh Kumar, Adv. Ashish Makhija,
Adv. Deep Bisht, Adv. Richa Singh
For the RP : Adv. Abhishek Parmar

ORDER

PER SHRI L. N. GUPTA, MEMBER (T)

The first IA No. 2225 of 2022 is filed by Mrs. Sunita Aggarwal, (hereinafter referred to as the 'Applicant No. 1') under Rule 60(5) of the NCLT Rules, 2016 read with Section 30(2) read with Rule 11 of the NCLT Rules, 2016. The second IA No. 2167 of 2022 has been preferred by Mr. Mohit Gupta (hereinafter referred to as the 'Applicant No. 2').

2. That Mrs. Sunita Aggarwal, Applicant No 1 has made the following prayers in the IA No. 2225/2022 :

- a) *Allow the present application.*
- b) *Condone the delay of 378 days in filing the claim,*
- c) *Direct the Respondent to admit the claim of applicant of Rs. 37,29,481/- along with interest @24% per annum till realization under the category of Secured Financial Creditor.*
- d) *Declare that the applicant is having right, interest and title over the flat bearing unit no. 407 in Tower A, Bulland Elevates, Plot No. GH-3A, Sector – 16C, Greater Noida, Uttar Pradesh measuring 1168 sq. ft. area, being the allottee.*

- e) *Consider the present application as objections to the Resolution Plan and reject the Resolution Plan or in the Alternative*

Direct that the applicant be given similar treatment at par with other home buyers/Allottees whose claim has been admitted in the proposed resolution plan being the Allottees

And/ Or

- f) *Pass any other or further directions as this Hon'ble Tribunal may deem fit and proper to meet the ends of justice in favour of the applicant and against the Respondent and in the interest of justice...."*

3. That Mr. Mohit Gupta, Applicant No. 2 has made the following prayers :

- "a) *Pass an order directing the Respondent/Resolution Professional to admit the claim of the Applicant.*
- b) *Direct the Respondent to consider the Applicant at par with the other unit buyers/claimant while implementing the Resolution Plan.*
- c) *Pass any further order(s)/direction(s) as this Hon'ble Tribunal may deem fit in the facts and circumstances of the present case and in the interest of justice...."*

4. Since both the Applicants have challenged the order of rejection of claim passed by the Resolution Professional on the ground of delay in filing the claim, we will consider both of them together and pass common order.

5. To put succinctly, facts of the case are that the Financial Creditor, M/s Canara Bank had filed an application bearing no (IB)-1744(ND)/2019 under Section 7 of IBC 2016 for initiation of CIR Process against the Corporate Debtor M/s. Bulland Buildtech Private Limited. That vide order dated 22.03.2021, this Adjudicating Authority had initiated the CIR Process against the Corporate Debtor and appointed Mr. Debashish Nanda as the RP.

6. That the Applicant No. 1 (IA-2225 of 2022) has stated that the RP has communicated rejection of its claim vide email dated 20.04.2022, on the ground that the claim is time barred. The scanned copy of the email communication rejecting the claim of the Applicant is reproduced below :

4/28/22, 6:19 PM Fwd: CLAIM FILING UNDER FINANCIAL CREDITOR FOR BULLAND ELEVATES UNIT NO 407, TOWER A - SUNITA AGGARWAL.

Subject: Fwd: CLAIM FILING UNDER FINANCIAL CREDITOR FOR BULLAND ELEVATES UNIT NO 407, TOWER A - SUNITA AGGARWAL (FORM CA) WITH DOCUMENTS.

Sunita Aggarwal <sunitaaggarwal2509@gmail.com>

Sent: Thu, 21 Apr 2022 11:16:36 GMT+0530

To: You

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----- Forwarded message -----

From: Bulland Buildtech <ip.bulland@gmail.com>

Date: Wed, Apr 20, 2022, 15:52

Subject: Re: CLAIM FILING UNDER FINANCIAL CREDITOR FOR BULLAND ELEVATES UNIT NO 407, TOWER A - SUNITA AGGARWAL (FORM CA) WITH DOCUMENTS.

To: Sunita Aggarwal <sunitaaggarwal2509@gmail.com>

Cc: <siddharthagarwal@gmail.com>

Dear Sir,

We are in receipt of your mail.

In this context, we express our inability to entertain your claim at this stage being time barred and the Resolution Plan submitted by Prospective Resolution Applicant has early been approved by CoC and Resolution Professional has already filed an application for the approval of plan with the Hon'ble Adjudicating Authority.

Best Regards

On Tue, Apr 19, 2022 at 10:04 PM Sunita Aggarwal <sunitaaggarwal2509@gmail.com> wrote:

Dear Sir,

This is in reference to my Flat No 407, Tower A, Bulland Elevates wherein I have purchased the same a decade before.


Although the company went into NCLT last year, I came to know about the process for filing claims 10 days back. As I am single lady 58 years old I don't know the process for filing claims etc. Request you to kindly consider the same and acknowledge.

I have filed the form with help of my relatives...Request you to please accept the same as a claim under Financial creditor FORM CA for my unit.

Please find attached...below documents

- Builder buyer agreement / Allotment Letter
- Own contribution receipts
- Tripartite agreement between HDFC / Builder & myself.
- HDFC funding amount with details excel
- Permission to mortgage
- Interest calculations sheet for claim amount
- FORM CA
- Aadhar card

Thanks & Regards
Sunita Aggarwal
9873188142



7. Similarly, the Applicant No. 2 (IA-2167 of 2022) has annexed the email dated 11.04.2022, whereby the rejection of claim of the Applicant No. 2 was communicated. The scanned copy of the email communication rejecting the claim of the Applicant is reproduced below :

mohit gupta <mohitgupta0777@gmail.com>

Tue, Apr 12, 2022 at 1:20 PM

----- Forwarded message -----

From: **Bulland Buildtech** <ip.bulland@gmail.com>

Date: Mon, 11 Apr 2022 at 4:47 PM

Subject: Re: Flat No- 1504, Tower - E, Plot No- GH-3A, Sector 16C, Greater Noida

To: mohit gupta <mohitgupta0777@gmail.com>

Dear Sir,

We are in receipt of your claim documents.

In this context, we express our inability to entertain your claim at this stage being time barred and the Resolution Plan submitted by Prospective Resolution Applicant has early been approved by CoC and Resolution Professional has already filed an application for the approval of plan with the Hon'ble Adjudicating Authority.

Best Regards

On Mon, Apr 11, 2022 at 4:37 PM mohit gupta <mohitgupta0777@gmail.com> wrote:

Dear Sir/Madam,

I got your email, I was out of station. due to which I just could not reply to your mail, I'm sorry for this.

Please find attached documents.

Thank You.

From:

Mohit Gupta
09910106577


8. We have heard the parties and perused the documents placed on record. From the perusal of both the email communications, it is observed that the claims of both the Applicants are not decided on merits and were rejected on the ground of being time barred as the Resolution Plan has already been approved by the CoC.


9. At this juncture, we would like to refer to the Judgment of Hon'ble NCLAT passed in the matter of **Puneet Kaur Vs. K V Developers Private Limited & Ors. in Company Appeal (AT) (Insolvency) No. 390 of 2022**, dated 01.06.2022, wherein the following is held :

"27. In the present case there is no denial that details of the Appellant(s) and other Homebuyers, who could not file their claims has not been reflected in the Information Memorandum. There being no detail of claims of the Appellant(s), the Resolution Applicant could not have been taken any consideration of the claim of the Appellant(s), hence, Resolution Plan as submitted by Resolution Applicant cannot be faulted. However, we are of the view that the claim of those Homebuyers, who could not file their claims, but whose claims were reflected in the record of the Corporate Debtor, ought to have been included in the Information Memorandum and Resolution Applicant, ought to have been taken note of the said liabilities and should have appropriately dealt with them in the Resolution Plan. Non-consideration of such claims, which are reflected from the record, leads to inequitable and unfair resolution as is seen in the present case...."

10. Therefore, in view of the Judgement of the Hon'ble NCLAT in the matter of Puneet Kaur (Supra), we direct the Resolution Professional to verify the claims of both the Applicants herein *vis-à-vis* the records of the Corporate Debtor. If particulars/claims of the Applicants herein are reflected in the records of the Corporate Debtor, then the Resolution Professional is directed to consider the claims of the Applicants of IA-2225 of 2022 and IA-2167 of 2022 on merits for acceptance or otherwise.

11. **Accordingly, both the IAs are disposed of in the aforesaid terms.**


(L. N. GUPTA)
MEMBER (T)


(P. S. N. PRASAD)
MEMBER (J)

Since the Hon'ble Judicial Member Dr. P.S.N. Prasad is taking another Court, with his consent, the pronouncement of the Order is made under Rule 151 of the NCLT Rules, 2016 in the open Court today i.e., on 08.06.2022 on behalf of the Bench.



(T. S. Singh)
Court Officer