

**IN THE NATIONAL COMPANY LAW TRIBUNAL
ALLAHABAD BENCH, PRAYAGRAJ**

IA No.629/2023 IN CP NO.(IB) 90/ALD/2022

(An application under Section 60(5), R/W Section 65 of the IBC, 2016, R/W Rules 11 of the NCLT, Rules, 2016.)

IN THE MATTER OF:

MR. ASHEEMT SINGH BHATIA

S/o Mr. Gurdeep Singh Bhatia
R/o 12-A, Savitri Sahni Enclave,
New Hyderabad, Lucknow,
Uttar Pradesh- 226007

.....APPLICANT

Versus

VISTRA ITCL (INDIA) LIMITED

CIN: U66020MH1995PLC095507

Having Its registered office at:

IL&FS Financial Centre,
Plot No. C-22, G Block,
Bandra Kurla Complex,
Bandra East Mumbai – 400 051

Also at:

805, Kailash Building, 26,
Kasturba Gandhi Marg, Connaught Place, New Delhi- 110001

.....RESPONDENT NO.1

M/S WIZTOWN PLANNERS PRIVATE LIMITED

CIN: U70200DL2013PTC248919

Having its registered office at:

174A, 7th Floor,
Tower A, The Conrenthum, Sector 62
Noida A, The Conrenthum, Sector 62,
Noida, Gautam Buddha Nagar,
Uttar Pradesh – 201 301

.....RESPONDENT NO.2

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NEW OKHLA INDUSTRIAL DEVELOPMENT AUTHORITY

Through its Chief Executive Officer (CEO),
Main Administrative Block,
Sector-6 Noida,
District Gautam Budh Nagar,
Uttar Pradesh-201301.
Email: ceo@noidaauthorityonline.com

.....**RESPONDENT NO.3**

AND IN THE MATTER OF

VISTRA ITCL (INDIA) LIMITED AND ORS.

..... **FINANCIAL CREDITOR**

Versus

WIZTOWN PLANNERS PRIVATE LIMITED

.....**CORPORATE DEBTOR**

Order pronounced on 16th July 2024

Coram:

Mr. Praveen Gupta : Member (Judicial)

Mr. Ashish Verma : Member (Technical)

Appearances:

Sh. Anurag Khanna Sr. Adv. : For the Applicant
assisted by Ms. Ridhima Verma, Adv.

ORDER

1. The present Application has been filed by the Applicant under Section 60(5) r/w Section 65 of the IBC, 2016, who is a homebuyer of M/s Granite Gate Properties Private Limited praying for the following reliefs:

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- a. Pass an order allowing the Applicant to intervene in the captioned matter i.e. C.P. (IB) 90/ALD of 2022;*
 - b. Pass an order to take on record and consider the facts and documents mentioned by the present Application, while adjudicating over the captioned matter i.e. C.P. (IB) 90/ALD of 2022;*
 - c. Pass an order dismissing the captioned matter i.e. C.P. (IB) 90/ALD of 2022;*
 - d. Pass an order imposing heavy penalty, under Section 65 of the Code, upon the alleged Financial Creditor and the alleged Corporate Debtor;*
 - e. Pass an order directing a detailed inquiry by an appropriate investigating agency of the Government of India, such as Enforcement Directorate, SFIO, etc., into the affairs of the Financial Creditor, the alleged Corporate Debtor and the various primarily shell companies of the Lotus Greens Group, under M/s Lotus Greens LLP;*
 - f. Pass any other order, as this Hon'ble Tribunal may deem fit, in the light of the facts and circumstances of the present case, in the interest of transparency, equity and justice.*
- 2.** It is submitted that the Applicant is a homebuyer of a group company of Three C Group, namely, of M/s Granite Gate Properties Pvt. Ltd. ("GGPPL"), which is a related company

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of the Wiztown Planners Pvt. Ltd. (hereinafter Respondent No. 2) of which Mr. Nirmal Singh and his family members are their common promoters.

3. The Applicant was allotted a residential apartment No. 2502 on the 25th Floor of Tower-19 in the group housing project titled 'Lotus Panache' of GGPPL, vide an allotment letter, dated 01.12.2011. Thereafter, on 06.12.2011, the Applicant entered into an Apartment Buyers Agreement ('ABA') with GGPPL. The delivery of possession of the said flat was scheduled to be given within 39 months from the date of allotment i.e., on or before 01.03.2015. However, Lotus Panache faced a significant liquidity crisis, causing construction work on the entire Lotus Panache Project, including Tower-19 where the Applicant's unit is located, to come to a halt.
4. The Applicant submitted that the Respondent No.2 was created as a 100% owned subsidiary of M/s Lotus Green Constructions Private Limited (LGCPL) and under the full control of the family members of Mr. Nirmal Singh, through the principal borrower, i.e., LGCPL with the objective of

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siphoning funds and has been used to carry out a largescale fraud of the Sports City Project at Sector 150 Noida. Mr. Nirmal Singh, bid for the Sports City Project Scheme floated by the NOIDA Authority, in the year 2014-15, in its recreational land-use, Sector 150, Noida, through a consortium of 7 member companies with the lead member as LCGPL, 100% owned by his son, Mr. Harkaran Singh Uppal through his shareholding in Lotus Greens LLP. Accordingly, NOIDA allotted the project to the said consortium, consisting of 5 companies of this LOTUS GREENS GROUP, one company of the 3C GROUP and one company of their very close and huge business associate, ACE GROUP.

5. The Applicant submitted that the captioned Company Petition is a malicious plan of Mr. Nirmal Singh and his associates. The Financial Creditor, to whom the debt was allegedly assigned by the original financial creditor, namely, IL & FS, has filed a Section 7 application only against the Corporate Debtor and no action whatsoever has been taken by the same against the LGCPL and/or Mr. Nirmal Singh,

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whose personal guarantee was furnished as security with IL & FS, as per the terms and conditions of the Debenture Trust Deed, dated 03.12.2014. This is indicative of the collusion between the Financial Creditor and promoters of LGCPL and its LOTUS GREENS GROUP and the promoters of the ACE GROUP, which owns number of the erstwhile subsidiaries of LGCPL and the other members of the 7 members consortium, who fraudulently siphoned off the ownership of the ACE GROUP, by transferring their 100% equity shares for just Rs. one lakh each.

6. We have heard the Ld. Sr. Counsel representing the Applicant in which a notice was also issued to the Financial Creditor on 25th April, 2024. The Ld. Sr. Counsel representing the Financial Creditor vehemently opposed the present application as being not maintainable for want of locus standi.
7. On perusal of the record and hearing the submissions made by the Ld. Sr. Counsels representing both the parties, we find that the Applicant is a homebuyer of a group company of Three C Group, namely, of M/s Granite Gate Properties

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Pvt. Ltd. which is a related company of the Wiztown Planners Pvt. Ltd. Nothing has been found in the submission made by the Applicant as related to the details about the Sports City Project having bearing on transactions between the Financial Creditor and the Corporate Debtor and also, the Applicant has nowhere been found involved in transactions either with Financial Creditor or Corporate Debtor to have any locus in proceeding u/s 65 of the IBC in which it has prayed to be impleaded. The Applicant is therefore, neither a relevant nor a necessary party in the present proceedings initiated by the Corporate Debtor against the Financial Creditor U/s 65 and in view thereof without returning any findings on merits of the present application, we dismiss the present application as the Applicant does not have a locus to maintain. The application is thus dismissed without however, any order as to the cost.

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(Ashish Verma)
Member (Technical)

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(Praveen Gupta)
Member (Judicial)

Date: 16th July 2024