

**NATIONAL COMPANY LAW TRIBUNAL  
BENGALURU BENCH**

ATTENDANCE CUM ORDER SHEET OF THE HEARING OF NATIONAL COMPANY LAW TRIBUNAL,  
BENGALURU BENCH, BENGALURU, HELD ON 04.09.2020

**THROUGH VIDEO CONFERENCING**

**CAUSE LIST**

PRESENT: 1. Hon'ble Member (J), Shri Rajeswara Rao Vittanala  
2. Hon'ble Member (T), Shri Ashutosh Chandra

CP/CA No.	Purpose	Sec	Name of Petitioner	Petitioner Advocate	Name of Respondent	Respondent Advocate
CP(IB) No. 84/BB/2019	For pronouncement of orders on IA 204/2020 IA 205/2020 IA 206/2020 IA 207/2020 IA 208/2020 IA 213/2020 IA 214/2020 IA 215/2020 IA 216/2020 IA 217/2020 IA 218/2020 IA 236/2020 IA 304/2020 IA 305/2020 IA 306/2020 IA 307/2020 IA 309/2020 IA 310/2020 IA 311/2020 - CIRP	Sec 7 of I&B code 2016	M/s Pratap Chandra Pandhy& Ors	Abhay Kumar Das/Aruni Poddar, Advocates	M/s Dreamz Infra India Ltd	Ashok Kriplani, RP ShanmukhaBharadwaz, for RP – Applicant, A Mahesh Chawdhary Vijay Pal Sharma For IA 236/2020 V B Shivakumar for Respondent in IA, Bojanna Respondent in IA, B Pramod & G V Sudhakar Respondent in IA.

ADVOCATE FOR PETITIONER/s:

MR. MAHESH CHOWDHARY - Advocate for R.P

MR. VIJAYA PAL SHARMA - Advocate for Applica  
in I-A No. 236/2020

ADVOCATE FOR RESPONDENT/s:

**ORDER**

I.A Nos. 205, 206, 207, 208, 213, 214, 215, 216, 217, 218, 304, 305, 306, 307, 309, 310 & 311 of 2020 are dismissed by separate order.

I.A No. 204 of 2020 is dismissed as withdrawn by separate order.

I.A No. 236 of 2020 is rejected by separate order.

List ALL I-A's & Post the Case on 14.09.2020

  
MEMBER (T)

  
MEMBER (J)

**IN THE NATIONAL COMPANY LAW TRIBUNAL  
BENGALURU BENCH**

I.A. No. 236 of 2020 in  
C.P (IB)No.84/BB/2019  
U/s. 60 (5) of the IBC, 2016  
R/w Rule 11 of the NCLT Rules, 2016

Ms. Disha Choudhary,  
Managing Director of  
M/s. Dreamz Infra India Limited,  
No. 577/B, 2<sup>nd</sup> Floor, Outer Ring Road,  
Teachers Colony, Koramangala,  
Bengaluru – 560 034

- Applicant

**And**

Shri Ashok Kriplani,  
Resolution Professional of  
Dreamz Infra India Limited,  
R/o. 381, Flat No.103,  
7<sup>th</sup> Block, Koramangala,  
Bengaluru City

- Respondent/RP

**Date of Order: 4<sup>th</sup> September, 2020**

**Coram:** 1. Hon'ble Shri Rajeswara Rao Vittanala, Member (Judicial)  
2. Hon'ble Shri Ashutosh Chandra, Member (Technical)

**Parties/Counsels Present:**

For the Applicant : Shri Vijaya Pal Sharma

For the RP : Shri Mahesh Chowdhary

**ORDER**

**Per:** Rajeswara Rao Vittanala, Member (Judicial)



1. I.A. No. 236 of 2020 in CP (IB) No. 84 of 2019 is filed by Ms. Disha Choudhary, Managing Director of the Corporate Debtor ('hereinafter referred to as the Applicant') U/s 60 (5) of the I & B Code, R/w Rule 11 of the NCLT Rules, by inter alia seeking approval for the appointment of New Directors to complete the formalities in ROC etc.
2. Brief facts of the case, mentioned in the application, which are relevant to the issue in question, are as follows:
  - 1) The Applicant is a major stakeholder and only surviving Member and MD of the Corporate Debtor namely M/s. Dream Infra India Limited. The main company petition is filed by Pratap Chandra Padhy u/s 7 of the IBC 2016 R/w Rule 4 of the I&B (AAA) Rules 2016. The other Directors of the Company absconded due to filing of various criminal cases U/s 138 as well as consumer cases in different District Consumer Dispute Redressal Forum, and the Applicant was trying her best to resolve the issue.
  - 2) On 25.11.2019, the Applicant was arrested and lodged in the jail at Bengaluru and still in the judicial custody. The Applicant has contacted through some well-wisher to the present counsel who as stated as follows:
    - a. That Company is not properly represented by the Counsel in the NCLT and it was not brought into the notice of Tribunal that the Company have only one surviving Director and other Director had already resigned hence company cannot do any business activity so the Vakalatnama is not supported by the Board resolution and the counsel, who initially filed the Vakalathnama is not competent to represent the case on behalf of the Company.





- b. That the Counsel has not informed to the Applicant that Adjudicating Authority admitted the petition vide dated 20.08.2019, initiating CIRP by appointing IRP, imposing moratorium etc.
- 3) It is alleged that the Applicant also came to know that many false claim or uncomplete claims are pouring to said IRP, which can only be verified by the suspended Board of Directors of the Company. The allegation of IRP that the Applicant was not co-operating in the CIRP is baseless and beyond the control of the Applicant as she is in Judicial Custody.
- 4) The Company under CIRP must be represented properly, therefore, appointing of new Directors are necessary to complete the strength of minimum 3 Directors in the Company as per the provisions of the Companies Act. The proposed Directors are as follows:
- i. Ramakant Singh s/o Harinath Singh, R/o. Basudeopur, Mahnar Vaisali, Bihar – 844501
  - ii. Shravan Kumar, S/o. Phulender Narayan Jha, House No. 227, ward No.7, Pandhian Bazar, Kartarpur Rural, Jalandhar, Punjab,
  - iii. Monu Singh, s/o Rampal Singh, R/o. House No. MCF – 209, Sanjay Colony, Ballabghar, Faridabad, Haryana
- 5) The Applicant also came to know that many Financial Creditors raised objection in NCLAT about the working of the IRP and the case is pending for adjudication and due to lock-down no stay is granted for uncontrolled way of working of IRP.
- 6) Hence the application.
3. The Respondent /RP has filed statement of Objections dated



25.08.2020 by *inter-alia* contending as follows:

- 1) The Adjudicating Authority admitted C.P (IB)No.84/BB/2019 vide order dated 20<sup>th</sup> August, 2019 by initiating CIRP, appointing IRP etc. The Applicant is currently is judicial custody being arrested by Crime Investigation Department (CID) for scam piloted by her and other Directors of the Corporate Debtor. They currently stand disqualified by the MCA for violation of the Companies Act, 2013 and as such the Corporate Debtor is declared as inactive for default in filing the returns and is declared to be under CIRP process. The Applicant is ignorant of the procedure for appointing additional Directors under the present circumstances and has not given consideration to procedure as laid down under the Companies Act, 2013.
- 2) As per Section 161 of the Companies Act 2013, an Additional Director can only be appointed if the AOA permit the same and the appointment can only be done by the approval of the Board of Directors in a Board meeting. The minimum quorum to conduct a board meeting for a private limited company is two Directors. Further, as per Section 174 (2) of the Companies Act, 2013, if the number of Directors falls below the quorum, the continuing Director may act for the purpose of increasing the number of Director that fixed for the quorum or can summon a general meeting for appointing the Director. As per clause 69 of Table F, if the number of Directors falls below the quorum fixed by the Act, the remaining Directors can, for increasing number of Directors to that fixed quorum summon a general meeting of the Company. In the present scenario the above circumstances



will not be applicable as the Applicant is bound to be disqualified u/s 164 (2) (a) of the Companies, Act, 2013. As per the Section when a Company has not filed financial statement or annual return for any three consecutive years, it will result in the disqualification of the Directors. The Corporate Debtor's annual returns have not been filed in over three years; hence the Applicant is disqualified as a Director under law.

- 3) All the Directors of the Corporate Debtor have either resigned or are disqualified; Section 168 (3) will be applicable in the present scenario. When all the Directors of the Company resign or vacate their offices u/s 167 the promoter of the Company or in his absence the central Government shall appoint the required number of Directors till next general meeting.
  - 4) The conduct of the Applicant is well illustrated by the fact that she has been under imprisonment and till date has not been able to procure any bail order. Since the Company is under CIRP, COC becomes paramount and by virtue of decisions taken by the COC, RP is discharging his role and engaging professionals.
4. Heard Shri Vijay Pal Sharma, learned Counsel for the Applicant, and Shri Mahesh Chowdhary, Learned Counsel for the RP, **through Video Conference**. We have carefully perused the pleadings of the Parties, and also extant provisions of the Code, and the Rules made thereunder.
  5. As stated supra, the Corporate Debtor is under CIRP by virtue of order passed by the Adjudicating Authority. Therefore, the management of Corporate Debtor, including its Directors, stands suspended during CIRP, in terms of extant provisions of Code and the Rules made thereunder. Therefore, the question of either permitting the Applicant





as MD or permitting to her to suggest to appoint Directors afresh do not arise at all. Therefore, the instant is filed on misconceived facts and law and thus it is liable to be rejected.

6. In the result **I.A No. 236 of 2020** in CP (IB) No. 84/BB/2019 is hereby rejected. No order as to costs.

**ASHUTOSH CHANDRA**  
**MEMBER, TECHNICAL**

**RAJESWARA RAO VITTANALA**  
**MEMBER, JUDICIAL**

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**IN THE NATIONAL COMPANY LAW TRIBUNAL  
BENGALURU BENCH**

I.A. No.204/2020 in  
C.P. (IB)No.84/BB/2019  
U/s. 19 (2) R/w Ss.18 (1) (F) (II)  
25 (1) of IBC, 2016  
R/w Rule 11 & 32 of NCLT Rules, 2016

**In the matter of:**

**Shri Ashok Kriplani**

*Resolution Professional of*  
*M/s. Dreamz Infra India Limited*  
17/13, GF, Old Rajinder Nagar,  
New Delhi – 110 060

... Applicant/RP

**Date of Order: 4<sup>th</sup> September, 2020**

**Coram:** 1. Hon'ble Shri Rajeswara Rao Vittanala, Member (Judicial)  
2. Hon'ble Shri Ashutosh Chandra, Member (Technical)

**Parties/Counsels Present, through Video Conference:**

For Applicant/RP : Shri A. Mahesh Chowdhary

**ORDER**

**Per:** Rajeswara Rao Vittanala, Member (J)

1. I.A.No.204/2020 in C.P.(IB)No.84/BB/2019 is filed by Shri Ashok Kriplani (Applicant/Resolution Professional), U/s. 19 (2) R/w Ss. 18 (1) (F) (II) 25 (1) of IBC, 2016, R/w Rule 11 & 32 of NCLT Rules, 2016, by inter alia seeking to issue notice to the illegal occupants to submit their title documents and authority to continue in possession in the property belonging to Corporate Debtor or vacate the premises; to direct the Deputy Commissioner of Police, South to assist RP in taking the possession of the apartments in Dreamz Sangam.



2. Heard Shri A. Mahesh Chowdhary, learned Counsel for the Applicant through Video Conference. We have carefully perused the pleadings of the party and extant provisions of the Code and Rules made thereunder.
3. Shri A. Mahesh Chowdhury, learned Counsel for the Applicant seeks permission to withdraw the instant Application. He has also filed Memo for withdrawal dated **17.08.2020** (which is taken on record).
4. Since the Applicant wanted to withdraw the instant Application, we are inclined to permit the Applicant to do so.
5. In the result, **I.A. No.204/2020** in C.P. (IB)No.84/BB/2019 is hereby dismissed as withdrawn.

**(ASHUTOSH CHANDRA)**  
**MEMBER, TECHNICAL**

**(RAJESWARA RAO VITTANALA)**  
**MEMBER, JUDICIAL**

**IN THE NATIONAL COMPANY LAW TRIBUNAL  
BENGALURU BENCH**

**I.A. No.205 of 2020**

U/s. 45, 50 R/w Ss. 66 & 67 of IBC, 2016

**I.A. No.206 of 2020**

U/s.18 R/w Section 19 of IBC, 2016

**I.A. No.207 of 2020**

U/s.45, 50 R/w Ss. 66 & 60(5) of IBC, 2016

**I.A. No.208 of 2020**

U/s. 60(5) R/w Section 66 of the IBC 2016

R/w Rule 11 & 32 of NCLT Rules, 2016

**I.A. No.213 of 2020**

Under Regulation 31, 33 & 34 of I&B Regulation, 2016

R/w S60 (5) of IBC, 2016

R/w Rule 11 of NCLT Rules, 2016.

**I.A. No.214 of 2020**

U/s. 60 (5) R/w S66 of I&B Code, 2016

R/w Rule 11 & 32 of NCLT Rules, 2016

**I.A. No.215 of 2020**

Under Regulation 31, 33 & 34 of I&B Regulation, 2016

R/w Rule 11 of NCLT Rules, 2016

**I A. No. 216 of 2020**

U/s19 (2) r/w Section 18 (1) (F) (II) R/w

Rule 11 & 32 of NCLT Rules, 2016

**I.A. No. 217 of 2020**

U/s 60 (5) r/w Section 66 of I & B Code, 2016,

R/w Rule 11 & 32 of NCLT Rules, 2016

**I.A. No. 218 of 2020**

U/s19 (2) r/w Section 18 (1) (F) (II) &

Section 25 (1) of I & B Code, 2016

Rule 11 & 32 of NCLT Rules, 2016

**I.A. No.304 of 2020**

U/s 18(1)(f) R/w Section 60(5) of IBC, 2016

**I.A. No.305 of 2020**

U/s 18(1)(f) R/w Section 60(5) of IBC, 2016

**I.A. No.306 of 2020**

U/s 18(1)(f) R/w Section 60(5) of IBC, 2016

**I.A. No.307 of 2020**

U/s. 17(1)(d) R/w Section 238 of the IBC 2016



**I.A. No.309 of 2020**

U/s. 66 of the IBC 2016

**I.A. No.310 of 2020**

U/s. 18(1)(f) R/w Sec.60(5) of the IBC 2016

**I.A.No.311 of 2020**

U/s 18(1)(F), R/w  
Section 60(5) of the IBC, 2016

**Between:**

Shri Ashok Kriplani,  
Resolution Professional of  
Dreamz Infra India Limited,  
r/o. 381, Flat No.103,  
7<sup>th</sup> Block, Koramangala,  
Bengaluru City

- Applicant /RP

**And**

I.A.No.205/2020

Sri V. Suresh Kumar  
R/at. Venugopal Swamy Temple,  
Devarabisanahalli, Bellandur Post,  
Bengaluru – 560 103 & 4 Ors.

I.A.No.206/2020

The Chief Executive Officer,  
Karnataka Industrial Area Development Board  
49, 4<sup>th</sup> & 5<sup>th</sup> Floors,  
'East Wing', Mineral House,  
Race Course Road,  
Bengaluru – 560 001

I.A.No.207/2020

Sri Sajjanraj  
No.35, Anmol Shankara Park,  
Shankarapuram,  
Bengaluru – 560 004 & Anr

I.A No. 208/2020

Mr. B.M. Balaram,  
R/a No.557, Kamakshipalya,  
Opp. BEML Layout,  
Bengaluru – 560 079 & 2 Ors



I.A NO. 213/2020

M/s. Apartment Buyers Consumer Association (R.),  
No.31, II Main Gururaja Layout,  
Behind Vidyapeeta Temple,  
Tyarajanagar,  
Bengaluru- 560 028

I.A NO. 214/2020

Smt. Komala  
R/a No. 2010, 22<sup>nd</sup> 'C' Cross,  
1<sup>st</sup> Sector, HSR Layout,  
Bangalore – 560 102 & Anr

I.A No. 215/2020

Committee of Creditors of  
(M/s. Dreamz Infra India Ltd  
*Represented by Ramanan S Viswanathan*)  
577/B, 2<sup>nd</sup> Floor, Outer Ring Road,  
Teachers Colony, Kormangala,  
Bangalore- 560 034

I.A No. 216/2020

Shri Ramoji Gowda,  
R/at No. 337/2, Hulimangala,  
Jigani Hobli, Anekal Taluk,  
Bengaluru – 560 106  
And 3 others

I.A No. 217/2020

Shri V. Nama Keerthi,  
No.2, VMV Grapes Garden,  
Kalkere Main Road,  
Horamavu,  
Bengaluru – 560047

I.A No. 218/2020

Dreamz Siddi-1 Apartment  
Owner Association,  
Through its Vice President  
Shri Ramesh  
Golahalli – Veerasandra Road,  
Electronic City Phase I,  
Near Maharaja Public School,  
Bengaluru – 560 100

I.A No. 304/2020



Shri Anjanappa  
Chambenhalli, Dommasandra Post,  
Sarjapura Hobli, Anekal Taluk,  
Bangalore – 562 125. & 7 Ors

I.A No. 305/2020  
Shri K.W.L.A. Khan & Ors.  
R/a KMK Rice Mill's Compound,  
N.T. Road, Shimoga,  
Karnataka. & 3 Ors.

I.A No. 306/2020  
Mr. Syed Yousuf  
S/o Late Syed Hyder  
R/a No.9, 4<sup>th</sup> Cross, 9<sup>th</sup> Main,  
BTM Layout 1<sup>st</sup> Stage,  
Bangalore – 560 029& 5 Ors

I.A.No.307/2020  
The Manager ICICI Bank Ltd.  
R/a: No.5, P&T Colony,  
R.T. Nagar Main Road,  
R.T. Nagar, Bengaluru,  
Karnataka – 560 094.

I.A.No.309/2020  
Ms. Disha Choudhary  
R/a: 577/B, 2<sup>nd</sup> Floor,  
Outer Ring Road,  
Teacher Colony, Koramangala,  
Near Silk Board  
Bengaluru – 560 034. & Ors.

I.A.No.310/2020  
Mr. Riyaz Ahmad Shariff  
*Represented by his SPA Holder*  
*Mr. Maaz Ahmad Shariff*  
R/a: No. 548, 8<sup>th</sup> Main,  
Koramangala, 4<sup>th</sup> Block,  
Bengaluru – 560 034

I.A No. 311/2020  
Smt. Padmavathi Rudraraju  
*Rep. by her GPA holder*

*NVS Ramachandra Raju*  
No.9, 5<sup>th</sup> Main, Balaji Layout,  
Kadirenahalli Main Road,

Near Tata Nagar,  
Bangalore – 560 054

- Respondents

**Date of Order: 4<sup>th</sup> September, 2020**

**Coram:** 1. Hon'ble Shri Rajeswara Rao Vittanala, Member (Judicial)  
2. Hon'ble Shri Ashutosh Chandra, Member (Technical)

**Parties/Counsels Present (through Video Conference):**

For the Applicant /RP : Shri Mahesh Chowdhary  
For the R1 in IA No.207/2020 : Shri Syed Kamruddhi  
For Respondent in IA No. 213/2020 : Shri V.B Shiv Kumar  
For the Home buyers : Shri Vishwanathan  
(Authorised Representative)

**COMMON ORDER**

**Per:** Rajeswara Rao Vittanala, Member (Judicial)

1. Since all the above Applications arise out of initiation of CIRP in respect of Corporate Debtor and have been filed by the Resolution Professional, who has filed all these Applications, without first deciding the scope of CIRP initiated by the Adjudicating Authority against the Corporate Debtor and thus expanded the scope of CIRP contrary to law, it is necessary to dispose of all the Applications by way of Common Order.
2. I.A.No.205/2020 is filed by Shri Ashok Kriplani (Applicant/Resolution Professional), against Sri V. Suresh Kumar & 4 Ors. (Respondents), U/s. 45, 50 R/w Ss. 66 & 67 of IBC, 2016 R/w Rule 11 & 32 of NCLT Rules, 2016, by inter alia seeking to direct the Respondents not to alter the status of the properties; to declare Sale Deed dated 3<sup>rd</sup> September, 2016 in respect of Schedule Properties null and void as the same is bad in law



on account of the transaction being fraudulent; to declare Corporate Debtor is sole and absolute owner of Schedule Property.

3. I.A.No.206/2020 is filed by Shri Ashok Kriplani (Applicant/ Resolution Professional), against The Chief Executive Officer (Respondent), U/s.18 R/w Section 19 of IBC, 2016 R/w Rule 11 & 32 of NCLT Rules, 2016, by inter alia seeking to direct the Respondent to provide 30 feet wide access, a way of the Applicant to the land mentioned in the Schedule Property to develop and let his homebuyers stay in it; to grant permanent stay against the Respondent to not to interfere with the access so provided to the Applicant and his homebuyers.
4. I.A.No.207/2020 is filed by Shri Ashok Kriplani (Applicant/Resolution Professional), against Sri Sajjanraj & Anr. (Respondents), U/s.45, 50 R/w Ss. 66 & 60(5) of IBC, 2016 R/w Rule 11 & 32 of NCLT Rules, 2016, by inter alia seeking to declare Transaction regarding Schedule A and B Properties fraudulent in nature and stay all proceedings and transaction until disposal of this Application; to direct the Respondent No.1 to Compensate the Applicant with the present potential value of the Schedule A property or in the alternative, direct Respondent No.1 to repay a sum of Rs.89,00,000/- received as advance with 18% interest from date of agreement till date etc.
5. I.A. No. 208 of 2020 is filed by Mr. Ashok Kriplani (hereinafter referred to as 'Applicant') Under Section 60(5) R/w Section 66 of the IBC 2016, R/w Rule 11 and 32 of NCLT Rules, 2016 by *inter-alia* seeking to hold that transaction are fraudulent & Extortionate in nature and declare the Corporate Debtor is the absolute owner of the Schedule properties stay all transaction w.e.f property until disposal etc.
6. I.A. No. 213 of 2020 is filed by Mr. Ashok Kriplani (hereinafter referred to as 'Applicant') Under Regulation 31, 33 & 34 of I&B Regulation, 2016



R/w S60 (5) of IBC, 2016, R/w Rule 11 of NCLT Rules, 2016 by *inter-alia* seeking to declare that Respondent is trying to interfere with the duties and responsibilities of Applicant under the IBC code and Regulation, 2016 by misleading home buyers and also direct the Respondent to instruct its Association members to contribute in the CIRP costs immediately etc.

7. I.A. No. 214 of 2020 is filed by Mr. Ashok Kriplani (hereinafter referred to as 'Applicant') Under Section, 60 (5) R/w S66 of I&B Code, 2016, R/w Rule 11 & 32 of NCLT Rules, 2016 by *inter-alia* to declare the Cancellation Deed dated 18.10.2016 as null and void after the directing the CD to deposit Rs.25Lakhs and on deposit of the Rs.25,00,000/- by the Corporate Debtor etc.
8. I.A. No. 215 of 2020 is filed by Mr. Ashok Kriplani (hereinafter referred to as 'Applicant') Under Regulation 31, 33 & 34 of I&B Regulation, 2016, R/w Rule 11 of NCLT Rules, 2016 by *inter-alia* seeking to hold that Members as mentioned in the Annexure D are in willful disobedience and violation of order dated 17<sup>th</sup> December, 2019 and direct them to pay their contribution to Applicant.
9. I.A. No. 216 of 2020 is filed by the Resolution Professional ('hereinafter referred to as the Applicant') under Section 19 (2) r/w Section 18 (1) (F) (II) r/w Section 25 (1) of I & B Code, 2016 R/w Rule 11 & 32 of NCLT Rules 2016 by *inter alia* seeking to direct Respondents No.1 to 4 or their henchmen or legal heirs or any authorised representative from interfering with peaceful and lawful possession of the property; to direct Respondents No.1 to 4 to allow Applicant to complete the project as agreed in the Joint Development Agreement and consequently receive their share of 37% in the completed apartment complex etc.



10. I.A. No. 217 of 2020 is filed by the Resolution Professional, ('hereinafter referred to as the Applicant') under Section 60 (5) r/w Section 66 of I & B Code, 2016 r/w Rule 11 & 32 of NCLT Rules, 2016 by *inter-alia* seeking to direct Respondent to act in terms of MOU dated 01.10.2012 & restrain from interfering with construction or sale of the Schedule Property or changing the nature of the property etc.
11. I.A. No. 218 of 2020 is filed by the Resolution Professional, ('hereinafter referred to as the Applicant') under Section 19 (2) r/w Section 18 (1) (F) (II) r/w Section 25 (1) of I & B Code, 2016 R/w Rule 11 & 32 of NCLT Rules 2016 by inter alia seeking to issue notice to the Respondent to file their reply to the above said allegations of the Applicant and after hearing them, direct to submit their title documents and authority to continue in possession in the property belonging to Corporate Debtor or vacate the premises etc.
12. I.A. No.304 of 2020 is filed by Shri Ashok Kriplani, Resolution Professional (hereinafter referred to as 'Applicant/RP') under Section 18(f) and Section 25(1) & (2)(a)(b) r/w Sections 66 and 67 of the I&B Code, 2016 r/w Rules 11 and 32 of the National Company Law Tribunal Rules, 2016, by *inter alia* seeking to declare that all the Agreements except Joint Development Agreement (JDA) and all other documents have been fraudulently executed between Respondent and the Corporate Debtor etc.
13. I.A. No.305 of 2020 is filed by the Applicant/RP (hereinafter referred to as 'Applicant/RP') of M/s. Dreamz Infra India Limited under Section 18(1)(f) read with Section 60(5) of the I&B Code, 2016 by *inter alia* seeking to direct the Applicant to fulfil its commitment of balance payment and direct the Respondent to not to interfere in the execution of MOU in case the Applicant complies the order, etc.





14. I.A. No.306 of 2020 is filed by Shri Ashok Kriplani, Resolution Professional (hereinafter referred to as 'Applicant/RP') of M/s. Dreamz Infra India Limited 'Corporate Debtor') under Section 18(1)(f) read with Section 60(5) of the I&B Code, 2016 by *inter alia* seeking a direction to restrain Respondents or their men or agents or any person claiming through in interfering with the Schedule Property while Applicant is executing the work as per CIRP Process and direct the Area DSP to assist the Applicant in his endeavour to execute the CIRP of the Corporate Debtor in case the Respondent interfere in the work of the Resolution Professional, etc.
15. I.A.No.307 of 2020 is filed by Mr. Ashok Kriplani ('Applicant/RP'), U/s. 17(1)(d) R/w Section 238 of IBC 2016, R/w Rule 11 and 32 of NCLT Rules, 2016, by *inter-alia* seeking to hold the Respondent Bank are in wilful disobedience and violation of the Order dated 29<sup>th</sup> May, 2020; and to direct the Respondent Bank to defreeze the said Corporate Debtors account with the Respondent Bank.
16. I.A.No.309 of 2020 in C.P. (IB) No.84/BB/2019 is filed by Mr. Ashok Kriplani ('Applicant/RP'), U/s.66 of IBC 2016, R/w Rule 11 and 32 of NCLT Rules, 2016, by *inter-alia* seeking to declare the sale deed dated 21<sup>st</sup> May, 2013 in respect of Schedule Property as null and void and direct the concerned Sub-Registrar, Shivaji Nagar, Bengaluru, to transfer the Schedule Property in the name of the Corporate Debtor; and to declare the Corporate Debtor is the sole and absolute owner of Schedule Property.
17. I.A.No.310 of 2020 is filed by Mr. Ashok Kriplani ('Applicant/RP'), U/s.18(1)(f) R/w Section 60(5) of IBC 2016, by *inter-alia* seeking to restrain the Respondents or their men or agents or any person claiming through them in interfering with the Schedule Property while Applicant



is executing the work as per CIRP process and Direct Respondents to Refund Rs.287 Lakhs to the Applicant; and to direct the area DSP, to assist the RP in executing the CIRP, in case the Respondents interfere in the CIRP process.

18. I.A.No.311 of 2020 is filed by Shri Ashok Kriplani Resolution Professional of M/s. Dreamz Infra India Limited, (hereinafter referred to as 'Applicant'), U/s 18(1)(F), R/w Section 60(5) of the IBC 2016, by inter alia seeking to direct the Respondent not to interfere in the execution of Joint Development Agreement; to direct the Respondent to refund Rs.36 Lakh as paid to her in excess of as agreed in the JDA etc.
19. Heard Shri Mahesh Chowdhary, Learned Counsel for the Applicant/Resolution Professional, Shri Syed Kamruddhi, Learned Counsel for the Respondent in I.A No. 207 of 2020, Shri V.B Shiva Kumar, Learned Counsel for the Respondent in I.A No. 213 of 2020, and Shri Vishwanathan Authorised Representative for the Home Buyers/Respondents **through Video Conference**. We have carefully perused the pleadings of the Parties, the extant provisions of the Code, and Rules made thereunder and the Law on the issue.
20. At outset, it is relevant to point out here that the main Company Petition bearing C.P (IB) No. 84/BB/2019 was filed by M/s Pratap Chandra Padhy, Sujay Banrjee and .M.S Ansari. U/s 7 of the Code, R/w Section 4 of the I & B Code to initiate CIRP in respect of the Corporate Debtor. Their main grievance was that they have booked flats in **Dreamz Sumadhur at Singapur village, Yelahanka Hobli, Bengaluru North Taluk**. Accordingly, they have entered into MOU, Agreement of Sale with the Corporate Debtor. They have also filed Payment receipts, Memorandum of Understanding ('MOU'), Agreement of Sale entered with Corporate Debtor and also Legal notices they have issued. To cite one





MOU dated 19.01.2014 was entered between M/s. Dreamz Infra India Limited (Corporate Debtor) and Sujay Banarjee (the Second Petitioner) wherein they have referred Flat of Dreamz Sumadhur. The legal notices and all the correspondence also referred only **Dreamz Sumadhur**. Similarly, the other Petitioners have booked their Flats in same project viz., Dreamz Samadhur. Aggrieved by non-completion of the project as promised and failure to return consideration for Flats, they have filed the main Company Petition.

21. The Corporate Debtor M/s. Dreamz Infra India Limited (Corporate Debtor) had issued a letter of allotment dated 07.10.2015 to Shri M.S Anasari, the Petitioner No.3 by confirming the Flat No.110 on First Floor, measuring 1075 square feet in project Dreamz Sumadur, in Sy.No.54/1 situated at Singapur Village, Yelahanka, Bengaluru North Taluk was allotted to him and also stated that the allocation of flats was subject to approval of BDA (Bangalore Development Authority), BBMP (Bhruhat Bengaluru Mahanagar Palike), and BMRDA (Bengaluru Metropolitan Region Development Authority). There is another in it that if the First party was unable to get the approval, he will allot other unit in same project or other projects. Therefore, the initiation of the CIRP against the Corporate Debtor should be read with reference to **Dreamz Sumadhur** not all the projects of the Dreamz Infra India Private Limited as imitated in the instant case. .

22. It is stated that there are various projects initiated by the Corporate Debtor with various names, which are under various stages viz some are nearing completion, some are under completion, some are not all started. It is natural that a person will book flat in particular project and he is entitled to get that particular booking the flat in that project only, not in all other projects unless the Corporate Debtor or the real estate firm



assures like that. However, the Applicant (RP) after admission of the case has issued public announcement (FORM A) dated 03.09.2019 by calling upon all the Creditors of the Dreamz Infra India Limited (Corporate Debtor) to submit their claims with proof on or before 13.09.2019. Therefore, hundreds of people belonging to all projects of Dreamz Infra India Limited have responded. The Applicant by concluding that same procedure what applies to **Dreamz Sumadhur** would also apply to all other Projects of Dreamz Infra Indian Ltd in general, and thus invited all claims against it by notification and thus opened Pandora box. And the issues raised by the Applicant in the instant Applications would have serious ramifications having civil consequences, which cannot be adjudicated in summary proceedings contemplated under the provisions of Code.

23. Naturally, every Real Estate project has its own Customers and a customer of one project cannot claim against another project as the projects are separate and distinct unless the terms and conditions states contrary. In the instant case, the Petitioners have booked their Flats only in Dreamz Samadhur project, they are not entitled for Flats in other projects of Corporate Debtor. However, for the reasons best known to the Applicant, he has invited all Claimants against the Corporate Debtor. Therefore, several people, whose interest are going to be affected by virtue of illegal actions, have raised several objections opposing the efforts of the RP to inspect the other projects. Therefore, the Applicant not only expanded the scope of CIRP process, in contrary to law but also responsible for several disputes. It is settled principle of Law that insolvency proceedings, under the provisions of Code, are summary in nature. The Applicant, in the present Applications has raised several issues, which are purely serious civil in nature, which requires proper adjudication by Civil Courts, basing on adducing evidence and examining





witness etc. as per law. However, the Applicant by examining some of documents available with him, has peremptorily come to the conclusion on those serious issues and started issuing several notices to the Parties and filing Applications before the Adjudicating Authority seeking several directions, even without making out prima facie case. He is also threatening the People, who do not co-operate with him for his illegal actions with contempt and filing cases against them.

24. It is also relevant to point out here that Flat/Home Buyers, are naturally interested in getting either booking flat or returning of advance money by the Corporate Debtor. The Hon'ble NCLAT, has the occasion to examine the issues concerning Real estate Sector, in the case of Flat Buyers v/s Umang Realtech Private Limited, vide judgement dated 04.02.2020 passed in *Company Appeal (AT) (Insolvency) No. 926 of 2019 (Flat Buyers Association Winter Hills – 77, Gurgaon & Umang Realtech Pvt. Ltd through IRP & Ors )* by advertng various issues concerning Home Buyers and Real estate sector, it is inter alia observed as under:

*“In Corporate Insolvency Resolution Process against a real estate, if allottees (Financial Creditors) or Financial Institutions/Banks (Other Financial Creditors) or Operational Creditors of one project initiated Corporate Insolvency Resolution Process against the Corporate Debtor (real estate company), it is confined to the particular project, it cannot affect any other project(s) of the same real estate company (Corporate Debtor) in other places where separate plan(s) are approved by different authorities, land and its owner may be different and mainly the allottees (financial creditors), financial institutions (financial creditors, operational creditors are different for such separate project. Therefore, all the asset of the company (Corporate Debtor) are not to be maximized. The asset of the company (Corporate Debtor – real estate) of that particular project is to be maximized for balancing the creditors such as allottees, financial institutions and operational creditors of that*



*particular project. Corporate Insolvency Resolution Process should be project basis, as per approved plan by the Competent Authority. Any other allottees (financial creditors) or financial institutions/ banks (other financial creditors) or operational creditors of other project cannot file a claim before the Interim Resolution Professional of other project and such claim cannot be entertained.*

*So, we hold that Corporate Insolvency Resolution Process against a real estate company (Corporate Debtor) is limited to a project as per approved plan by the Competent Authority and not other projects which are separate at other places for which separate plans approved. For example – in this case the Winter Hill – 77 Gurgaon Project of the ‘Corporate Debtor’ has been place of Corporate Insolvency Resolution Process. If the same real estate company (Corporate Debtor herein) has any other project in another town such as Delhi or Kerala or Mumbai, they cannot be clubbed together nor can the asset of the Corporate Debtor (Company) for such other projects be maximized”.*

Though the above judgement is dated 04.02.2020, which is subsequent to the order of admission dated 20.08.2019 passed in the main Company Petition (CP (IB) No. 84/BB/2019) by the Adjudicating Authority, it is relevant to refer to the present circumstances of the case, as the CIRP is deemed to be at threshold as the Applicant has creating such litigation so as to see that there can never end CIRP in question.

25. At the time of admission, the Adjudicating Authority is not having the advantage of any assistance from the Corporate Debtor and the Petitioners of main CP being only three in number, could not place all the particulars of projects undertaken by the Corporate Debtor before the Adjudicating Authority. When the Applicant/RP, being a qualified Resolution Professional, is supposed to take steps within his powers, in

accordance with law. However, for the reasons best known to him, he has started taking steps in respect of all projects of Corporate Debtor running into about 100 different projects, instead of restricting CIRP to **Dreamz Sumadhur** in question. Therefore, he has issued Public Announcement (Form A) dated 03.09.2019 by inviting claims of all Creditors of Corporate Debtor. Therefore, hundreds of Home buyers have submitted their claims before him and thereafter, the Applicant started demanding them to contribute, failing which he has threatened them to Contempt and filing cases against them. And several hundreds of Home buyers have refused to contribute and to be part of CIRP. To cite an example, the Applicant has filed I.A No. 215 of 2020, as mentioned supra, by inter alia seeking to hold 1194 homebuyers are in wilful disobedience and violation of order dated 17<sup>th</sup> December, 2019 passed by the Adjudicating Authority and direct them to pay cost of Rs.1792/- towards CIRP by each of them. Similarly, in I.A No. 213 of 2020 filed against M/s. Apartment Buyers Consumer Association (R.), the Applicant has inter-alia held DREAMZ SAMITHA is a project undertaken by the Corporate Debtor and it should be subject to same procedure as any of other projects of Corporate Debtor. In response to the claim of Applicant, M/s. Apartment Buyers Consumer Association (R.), has got issued a Legal notice dated 21.01.2020 to the Applicant by inter alia contending that their rights in respect of property were not hold properly and effectively represent and thus called upon him to discontinue to hold himself as IRP for their Property. Similarly, several Home buyers have opposed the actions of Applicant for clubbing all the projects of Corporate Debtor, seeking to revive and to dig settled issues and un-connected issues with reference to Dreamz Sumadhur Project in question.

26. As per information furnished by the Applicant through Information Memorandum, aggrieved by the actions of Directors of the Corporate



Debtor and the Company, several of people running into hundreds, have already filed Civil and Criminal cases against the Company and its Directors before various Civil/Criminal Courts and they are prosecuting their cases. And those people have absolute right to prosecute their cases before respective Courts for their remedy. Since they have already initiated before initiation of CIRP in question, the Aggrieved Parties and concerned Courts cannot be restrained by virtue of moratorium, from prosecuting their cases before the Courts. Only the aggrieved Parties of Flat Buyers and Creditors of Dreamz Sumadhur are deemed to be covered by the instant CIRP.

27. The Applicant/RP uses to file several Interim Applications seeking several directions. Earlier also I.A Nos. 660, 661 and 662 of 2019 were filed by him and those were disposed of by common order dated 17.12.2019 by the Adjudicating Authority by directing the Applicant to discharge his duties as per extant provisions of the Code and rules made thereunder by granting liberty to him for filing necessary Application(s) with substantial evidence to seek any directions and do not resort to file any casual application (s) covering his duties and seek advises and he can file Application only when there is legal right and entitled for such relief from the Adjudicating Authority. He was also directed not to incur money from Corporate Debtor in causal way and is responsible for all the expenditure he used to spend. In spite of that directions, the Applicant without discharging his duties as per law, is again resorting to file several Applications raising so many issues, which are not all tenable and in fact several of those issues fall in the jurisdiction of the civil courts.

28. For the aforesaid reasons and circumstance of the case and the Law on the issue, we are of considered opinion that the Applicant has exceeded his jurisdiction and interpreted the CIRP in question, so as to suit him





rather than to achieve object of Code, in terms of the order dated 20th August, 2019 passed in CP (IB) No.84/BB/2019, and thus initiated several actions and filed the instant Applications, which are not at all maintainable. Therefore, in the interest of justice and equity, the CIRP initiated by the Adjudicating Authority, vide its order dated 20.08.2019 should be interpreted and read in relation to the project **Dreamz Sumadhur** only and not in respect of all the projects of the Corporate Debtor, so that CIRP in question initiated by the Adjudicating Authority, would be concluded in terms of extant provisions of Code and the Rules thereunder. We are also supported in this regard by the judgement of the Hon'ble NCLAT in Flat Buyers v/s Umang Realtech Private Limited, as cited supra.

29. In the result, the following orders are passed:

- 1) **I.A Nos. 205, 206, 207, 208, 213, 214, 215, 216, 217, 218, 304, 305, 306, 307, 309, 310 & 311 of 2020** in CP (IB) No. 84/BB/2019 are hereby dismissed as not maintainable.
- 2) The CIRP initiated vide order dated 20.08.2019 passed in CP (IB) No. 84/BB/2019 by the Adjudicating Authority is deemed to be in respect of only **Dreamz Sumadhur project.**
- 3) Accordingly, the Applicant is directed to take appropriate action in accordance with extant provisions of Code and the Rules made thereunder and complete CIRP in respect Corporate Debtor with reference to Dreamz Sumadhur project.

  
**ASHUTOSH CHANDRA**  
**MEMBER, TECHNICAL**

  
**RAJESWARA RAO VITTANALA**  
**MEMBER, JUDICIAL**