

IN THE NATIONAL COMPANY LAW TRIBUNAL: NEW DELHI
PRINCIPAL BENCH

ITEM No. 6
New RCP (IB)- 03(PB)/2023
Old CP No.(IB)- 732(PB)/2022

IN THE MATTER OF:

Nitin Hire Purchase Private Limited	...	Applicant/Petitioner
Vs		
Om Shivay Real Estate Private Limited	...	Respondent

Order under Section 7 of Insolvency & Bankruptcy Code, 2016

Order delivered on 07.11.2023

CORAM:

JUSTICE RAMALINGAM SUDHAKAR
HON'BLE PRESIDENT

SH. AVINASH KUMAR SRIVASTAVA
HON'BLE MEMBER (TECHNICAL)

(HEARING THROUGH PHYSICAL MODE & VC)

PRESENT:

For the Petitioner	:	Mr. Pranav Khanna, Proxy Counsel Mr. Gursat Singh, Advs.
For the Corporate Debtor	:	Mr. Saral Sharma, Adv.

ORDER

Proxy Counsel Mr. Pranav Khanna appeared on behalf of the Petitioner.

Ld. Counsel Mr. Saral Sharma appeared on behalf of the Corporate Debtor.

This is a Section 7 petition; the notice was ordered on 17.10.2022. Thereafter, on 07.02.2023 the Petitioner failed to appear. On 11.04.2023 the counsel for the Petitioner sought time to prepare and argue the matter. On 15.05.2023 none appeared on behalf of the Petitioner and the Ld. Counsel for the Respondent appeared. In view of the absence of the Petitioner Counsel the matter was dismissed for non-prosecution on 15.05.2023. Thereafter, the RA-107/2023 was filed on the explanation given by Ld. Counsel Mr. Gursat Singh, the notice was issued and vide order dated 11.10.2023, the RA was allowed in the following manner:

“RA-107/2023

Ld. Counsel appearing for the Applicant stated that on 15.05.2023 when the (IB)-732(PB)/2022 was dismissed for non-prosecution, he was trying to appear through VC but due to a technical glitch he couldn't appear. In view of above, the explanation given by the Ld. Counsel for the Applicant is accepted. Accordingly, RA-107/2023 stands allowed. Company Petition bearing no. (IB)-732(PB)/2022 stands restored. Registry is directed to list the company petition on 07.11.2023. Meanwhile, Ld. Counsel appearing for the Respondent who appears physically seeks time to file the reply. He is directed to file the reply in the main petition on or before 25.10.2023. Rejoinder, if any, be filed on or before 03.11.2023. List the matter on 07.11.2023.”

Time was given to the Respondent from 11.10.2023 for filing the reply and thereafter a rejoinder if any to be filed. Today when the matter was listed, no reply has been filed by the Corporate Debtor. We then called upon Ld. Counsel for the Petitioner to make his submissions so that he can argue the matter. Proxy Counsel Mr. Pranav Khanna appeared for the Petitioner and stated that he was not ready for the argument today and that he wanted another date. Proxy counsel Mr. Pranav Khanna appeared for the Petitioner as the main counsel is not appearing. Hence, it is clear that the counsel is not serious for prosecuting the matter.

It is a Section 7 petition and as per the code, there is a timeline specified, since the petitioner is not serious with prosecuting the matter, the matter stands dismissed for non-prosecution.

Accordingly, the New RCP (IB)- 03(PB)/2023 (Old CP No.(IB)-732(PB)/2022) stands dismissed for non-prosecution.

-sd-

**(RAMALINGAM SUDHAKAR)
PRESIDENT**

-sd-

**(AVINASH KUMAR SRIVASTAVA)
MEMBER (TECHNICAL)**

Vinod Arora – 07.11.2023