

IN THE NATIONAL COMPANY LAW TRIBUNAL: NEW DELHI
SPECIAL BENCH

ITEM No. 09
(IB)-477(PB)/2017

IN THE MATTER OF:

Au Small Finance Bank Ltd	...	Applicant/Petitioner
Vs		
Prabhu Shanti Real Estate Pvt Ltd	...	Respondent

Order under Section 7 of Insolvency and Bankruptcy Code, 2016 CIRP

Order delivered on 16.05.2023

CORAM:

JUSTICE RAMALINGAM SUDHAKAR
HON'BLE PRESIDENT

SH. ATUL CHATURVEDI
HON'BLE MEMBER (TECHNICAL)

(HEARING THROUGH PHYSICAL MODE AND VC)

PRESENT:

For the Petitioner	:	Mr. Ashish Aggarwal, Mr.Gurcharan Singh, Advs. in IA 689/23, 1212/2023 Mr. Milan Negi, Mr. Nikhil Jha, Advs in CA-2625/2019 Mr.AkarshGarg, Mr.ParthDavar, Advs. in IA-5929/21
For the RP	:	Mr. AbhishekParmar, with Mr. Devendra Singh, New RP
For Sus. BOD	:	Mr. AbhishekAnand, Mr. Karan Kohli, Advocates

ORDER

IA-1212/2023

Ld. Counsel Mr. Ashish Aggarwal for the applicant appeared and stated that by efflux of time, the present application has become infructuous.

Accordingly, the above application stand **dismissed as infructuous.**

CA-184/2020

This is an application filed by the erstwhile RP.

Ld. Counsel Mr Ashish Aggarwal for the homebuyer appeared and stated that the present application has become infructuous.

Accordingly, the above application stand **dismissed as infructuous.**

IA-5346/2022

Prayer in the application is as follows:

- a)** Remove and Replace Resolution Professional Sh. Abhishek Anand, on account of biased, mismanagement, in competency and negligence and direct him to hand over the entire record of the Corporate Debtor or any other record of whatsoever nature, to the newly appointed Resolution Professional;*
- b)** Appoint Sh. Rajeev Dhingra, having no. IBBI/IPA-001/IP01946/2019-2020/12970, as Resolution Professional of the corporate debtor, in order to protect the interest of applicants/home buyers; and*
- c)** Or in the alternate, appoint any other Resolution Professional to conduct the functioning of the corporate debtor;*
- d)** Pass orders for initiation of disciplinary proceedings under section 220 of the Insolvency and Bankruptcy Code 2016, against the Resolution Professional by the Insolvency and Bankruptcy Board of India for gross professional misconduct.*
- e)** Direct the Resolution Professional to consider the rate of interest @ 8 % P A, from the date of payment on the principal amount, as mentioned in the Form-C, or at the agreed rate of interest as per respective flat buyer agreement of the applicants/Home Buyers as in order to calculate the claim of applicants/home buyers;*
- f)** Pass any other order or directions as deemed fit and proper in the facts and circumstances of the case in order to protect the interest the home buyers.”*

Ld. Counsel Mr. Ashish Aggarwal for the applicant appeared and states that he is the new counsel on record.

It is submitted that Prayer 'a, b, c & d' becomes infructuous.

In so far as Prayer 'e' is concerned, as requested the new RP shall consider the claim.

The new RP is directed to verify and collate the claim in accordance with the law.

Accordingly, the above application stand **disposed of**.

IA-689/2023

In view of the order passed in IA-5346/2022, the present application is stated to be infructuous.

Accordingly, the above application stand **dismissed as infructuous**.

CA-799/2020

Prayer in the application is as follows:

“a. Implead CA Sh. Pushpendra Surana, FCA CPA (AUS), Authorised Representative of home buyers, of Prabhu Shanti Real Estate Pvt. Ltd., at 4831/24, Ansari Road, New Delhi – 110002, as Necessary Party in C.A. No. 35 of 2019;

b. Pass any other order or directions as deemed fit and proper in the facts and circumstances of the case.”

None appears for the application.

The prayer in this application becomes infructuous as Mr. Arvind Mittal, the new Authorised Representative of homebuyers is already in place vide order 21.04.2023 of this Adjudicating Authority.

Accordingly, the above application stand **dismissed as infructuous**.

IA-1980/2020

Prayer in the application is as follows:

“(a) to direct the Resolution professional and members of the committee of Creditors to consider the Settlement Agreement submitted by the Applicant for withdrawal of Insolvency Proceedings against the Corporate Debtor.

(b) To conduct and obtain e-voting of the members of the Committee of Creditor as per the Regulations 30A of the Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) Regulations, 2016.

(c) Any other relief which this Hon’ble Tribunal may deem fit and necessary in the interest of equity and justice.”

We direct the new RP to look into this prayer in this application and place it before the CoC for further wisdom and consideration.

Accordingly, the above application stand **disposed of**.

CA-2625/2019

Prayer in the application is as follows:

“(a) To direct the Resolution Professional to consider, examine and vet the Resolution Plan submitted by the Applicant.

(b) To Direct the members of the Committee of Creditors to not to impose any pre-conditions on the Resolution Applicant with respect to agreeing to pay 50% upfront financial claims for examining the Resolution plan submitted by the Applicant as it is illegal, arbitrary and against the spirit of the Insolvency and Bankruptcy Code 2016.

(c) To Direct the Resolution professional to seek voting of the home- buyers on the approval/rejection of Resolution Plan submitted by the Applicant herein as the homebuyers have a majority voting right in the CoC.

(d) Any other relief which this Hon’ble Tribunal may deem fit and necessary in the interest of equity and justice.”

Prayer 'a' in the application is relevant to the present case. Since, the issue is being reconsidered by CoC at the behest of the new RP. We direct the applicant to pursue the matter before the RP who will take instruction from the CoC, as to how to proceed on this.

Accordingly, the above application stand **disposed of**.

CA-893/2020

Today, when the matter was called, neither the applicant nor the Ld. Counsel for the applicant entered an appearance.

Accordingly, this application stands **dismissed for non-prosecution**.

CA-35/2019

Prayer in the application is as follows:

*“a) Recall of order dated 27.11.2018 and appoint Sh. Amit Sharma as Authorised Representative of the applicants/home buyers in order to represent before the Committee of Creditors on behalf of Home Buyers; and
b) Or in the alternate, direct the Interim Resolution Professional to conduct the Voting afresh in order to appoint the Authorised Representative on behalf of applicants/Home Buyers;
c) Direct the Interim Resolution Professional to share the Forensic Audit Report with this Hon’ble Tribunal and with applicants/home buyers;
d) Direct the Interim Resolution Professional to consider the reate of interst @ 8% P.A, from the date of payment on the principal amount, as mentioned in the Form-C, or at the agreed rate of interest as per respective flat buyer agreement of the applicants/Home Buyers as in order to calculate the claim of applicants/home buyers;
e) Pass any other order or directions as deemed fit and proper in the fats and circumstances of the case as may further be passed accordingly.”*

None appears for the applicant.

This application, however, can be considered by the RP on the same line as has been ordered in IA-5346/2022.

Accordingly, the above application stand **disposed of**.

IA-5929/2021

Prayer in the application is as follows:

- “1. That the claim being submitted by the applicant is maintainable as per the IBC Code.*
- 2. Direct the RP to consider the claim of the applicant*
- 3. Condone the delay in respect of the claim of applicant*
- 4. Pass any order in the in the interest of justice, equity and fair play.”*

Ld. Counsel Mr. Parth for the applicant appears and states that since the new RP has taken charge recently, the new RP may look into this issue and verify and collate the claim in accordance with law.

The applicant is hereby directed to approach the new RP in this regard.

Accordingly, the above application stand **disposed of**.

CA-1054/2019

Prayer in the application is as follows:

- “a. Remove Abhishek Anand as the Resolution Professional for the Corporate Debtor and appoint another resolution professional; or*
- b. Direct the Committee of Creditors to consider the removal of Resolution Professional through voting; and / or*
- c. Pass such other order as this Hon’ble Court may deem appropriate.”*

None appear for the applicant.

The prayer in the application has become infructuous as the new RP has been appointed.

Accordingly, the above application stand **disposed of**.

CA-840/2019

This is an application filed by the erstwhile RP.

The new RP appears and states that he will file an application to bring his name on record and shall pursue the matter.

List the matter again **on 21.08.2023** for a physical hearing.

CA-1028/2018, IA-5107/2021 and IA-705/2022

At the request and by consent of all the counsels list these applications **on 21.08.2023** for a physical hearing.

-sd-

(RAMALINGAM SUDHAKAR)
PRESIDENT

-sd-

(ATUL CHATURVEDI)
MEMBER (TECHNICAL)

DIPAK – 16.05.2023