

IN THE NATIONAL COMPANY LAW TRIBUNAL
BENGALURU BENCH, BENGALURU
[Through Physical hearing/VC Mode (Hybrid)]

ITEM No.08
I. A No. 427, 428, 429/2023
I.A No. 59, 107, 108, 109, 110,204/2024 in
CP (IB) No. 246/BB/2019

IN THE MATTER OF:

M/s. India Asset Growth Fund and
M/s. Vistra (ITCL) India Limited ... Petitioner
Vs
M/s. Vikram Structure Private Limited ... Respondent

Order under Section 7 of the I & B Code, 2016

Order delivered on: 17.04.2024

CORAM:

SH. K. BISWAL
HON'BLE MEMBER (JUDICIAL)

SH. MANOJ KUMAR DUBEY
HON'BLE MEMBER (TECHNICAL)

PRESENT:

For the Liquidator : Ms. Aishwarya Prasad
For R1 to 3 in I.A No.
427, 428 & 429/23 : Shri Abhijit Atur
For Homebuyers : Ms. Chithra Nirmala

ORDER

I.A. No. 427, 428 & 429/2023

1. Heard the Learned Counsel for the Applicants and Respondents No.1 to 3.
2. The Counsel for the R1 to 3 requested to give one final opportunity to file his reply in the applications.
3. It is noticed that the right to file reply to the Respondent is already forfeited vide order dated 31.01.2024. Therefore, the Respondent Counsel is directed to file a separate application for restoration of his right to file reply within one week duly serving the copy on the otherside. List on **07.06.2024.**

I.A. No. 59/2024

1. This application is filed by the Applicant under Section 60 (5) of the Insolvency and Bankruptcy Code, 2016 read with Rule 11 of the NCLT Rules 2016 inter alia seeking to direct the Liquidator to permit the Applicant to have unhindered access to his Commercial Space; to direct the Liquidator to restrain from including the Commercial Space, owned by the Applicant under a Registered Sale Deed dated 17.01.2020.
2. Heard the Learned Counsel for the Applicant and Respondent.
3. The Respondent counsel has filed objection vide Dy. No.2090 dated 02.04.2024 contending that the Respondent has not made any attempts to interfere in the property since the property does not belong to the Corporate Debtor and till date has not taken any step to dispossess any owner from their possession of any unit in VSPL Pinnacle who have become the owners of the units through registered sale deed. Further, the Applicant has not provided any single shred of evidence in support of his allegations. It is further stated that the Applicant's intention is to obtain an order protecting his possession in anticipation of some future interference. Therefore since is no ground for seeking relief against the Liquidator and hence the application need to be dismissed.
4. The Counsel for the Applicant during the hearing stated that the security guard in the property is not allowing the Applicant to enter the premises; therefore, the Applicant has been suffering severe losses.
5. In view of the facts and circumstances of the case and considering the submissions made by the Ld. Counsel for both the sides the prayers sought by the Ld. Counsel for the Applicant in the application stands allowed. Accordingly **I.A No.59 of 2024** is allowed.

I.A. No. 107, 108, 109, 110, 204/202

List all **the IAs on 07.06.2024.**

-Sd-
MANOJ KUMAR DUBEY
MEMBER (TECHNICAL)

-Sd-
K. BISWAL
MEMBER (JUDICIAL)