



HARERA
GURUGRAM

HARYANA REAL ESTATE REGULATORY AUTHORITY
GURUGRAM

हरियाणा भू-संपदा विनियामक प्राधिकरण, गुरुग्राम

New PWD Rest House, Civil Lines, Gurugram, Haryana नया पी.डब्ल्यू.डी. विश्राम गृह, सिविल लाईंस, गुरुग्राम, हरियाणा

PROCEEDINGS OF THE DAY

Day and Date	Wednesday and 26.07.2023
Complaint No.	E/1378/2023/2921/2020 Case titled Sunil Kumar Adlakha Vs Supertech Limited
Complainant	Sunil Kumar Adlakha
Represented through	Sh. Chirag Ahlawat Advocate
Respondent	Supertech Limited
Respondent Represented through	Sh. Bhrigu Dhami and Sh. Ritesh Chopra Advocates
Last date of hearing	
Proceeding Recorded by	Jyoti Malik

Proceedings

This is a petition seeking execution of order passed by the Haryana Real Estate Regulatory Authority, Gurugram (in brief the Authority). The JD/respondent (M/s Supertech Ltd.) has requested for adjournment sine die, stating that insolvency proceedings are going on against it (JD). Ld. counsel for JD took me through various orders passed by NCLT and NCLAT.

On the other hand, the petitioner requests to continue with execution proceedings. It is contended that even if insolvency proceedings are going on, the same are in relation to one project only i.e. ECO village-II and not about other projects. Attention of this Forum (Adjudicating Officer) is drawn to an order passed by National Company Law Appellate Tribunal, New Delhi (NCLAT New Delhi) dated 10.06.2022, where it was clarified that all other projects of corporate debtor apart from "Eco Village II" project shall be kept as ongoing projects. The construction of all other project shall continue----- IRP was asked to constitute COC with regard to "Eco Village II" only.

The NCLT, New Delhi in matter **Union Bank of India Versus M/s Supertech Limited No.IB-204/(ND)/2021** has initiated corporate insolvency resolution process (CIRP) by allowing an application filed by **Union Bank of India** under section 7 of The Insolvency and Bankruptcy Code, 2016 ("the

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भू-संपदा (विनियमन और विकास) अधिनियम, 2016 की धारा 20 के अर्तगत गठित प्राधिकरण
भारत की संसद द्वारा पारित 2016 का अधिनियम संख्यांक 16

Handwritten initials and signature:
d/vb
A.O.



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Code”) alleging default on the part of the respondent in settling amount of Rs.431,92,53,302/-. It was held by the Hon'ble NCLT that the documents submitted by the Financial Creditor and the Corporate Debtor clearly substantiate the Financial Creditor's claim that the Corporate Debtor has indebted and defaulted in repayment of loan amount and initiated CIRP on the Corporate Debtor, with immediate effect.

On an appeal filed by the Suspended Director of Supertech Ltd. i.e. Company Appeal (AT) (Insolvency) No. 406 of 2022, National Company Law Appellate Tribunal Bench, New Delhi (in brief AT) through an order dated 10.06.2022 held as follows:-

Considering the submissions of counsel for the appellant that large number of projects of the Corporate Debtor are ongoing projects where substantial completion has been made and large number of units have also been handed over to the home buyers and rest units shall also be handed over, in event the construction of the projects are allowed to proceed as ongoing project, the promoters of the Corporate Debtor are willing to extend all cooperation to the IRP for carrying out the ongoing projects. It is submitted that CIRP need not to be allowed to continue for all the 20 projects rather it may be undertaken on projects basis as has been held by this Tribunal in its Judgment of "Flat Buyers Association Winter Hills -77 Gurgaon Versus Umang Realtech Pvt. Ltd. Through IRP & Ors".

Hon'ble Tribunal made it clear that same was conscious of the fact that 'CIRP' has been initiated against the Corporate Debtor (Supertech Ltd.). CIRP has commenced against all the projects of the Corporate Debtor. CIRP encompasses all the assets of the Corporate Debtor including all Bank Accounts.

Citing all this, it is contended by learned counsel for the respondent that as CIRP encompasses all the assets of the Corporate Debtor (Supertech Ltd) including all Bank Accounts, no property or Bank account of JD can be attached to realise decretal amount. Even otherwise, according to him, moratorium has come into force and hence all cases including execution proceedings are liable to be stayed. Even NCLAT in its order 10.06.2022, as relied upon by the petitioners, has allowed, the construction of projects other than "ECO Village II" with overall supervision of IRP.

Learned counsel for the respondent pointed out that even the Supreme Court of India, New Delhi in case **Indiabulls Assets Reconstruction Company Limited versus Ram Kishore Arora & Ors** Civil Appeal No.1925 of 2023 made following observations :-

The result of the directions of the impugned order dated 10.06.2022 is that except Eco Village-II, all other projects of the corporate debtor are to be kept as ongoing projects and the construction of all other projects is to be

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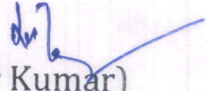
continued under the supervision of the IRP with the ex-management, its employees and workmen. Infusion of funds by the promoter in different projects is to be treated as interim finance, regarding which total account is to be maintained by IRP. If at the present stage, on the submissions of the appellants, COC is ordered to be constituted for the corporate debtor as a whole in displacement of the directions of the Appellate Tribunal, it is likely to affect those ongoing projects and thereby cause immense hardship to the home buyers while throwing every project into a state of uncertainty. On the other hand, as indicated before us, the other projects are being continued by the IRP and efforts are being made for infusion of funds with the active assistance of the ex-management but without creating any additional right in the ex-management. In our view, greater inconvenience is likely to be caused by passing any interim order of constitution of COC in relation to the corporate debtor as a whole; and may cause irreparable injury to the home buyers. In this view of the matter, we are not inclined to alter the directions in the order impugned as regards the projects other than Eco Village-II".

While admitting the application filed by the **Union of India**, to initiate corporate insolvency resolution process against the respondent (Supertech Ltd.) under section 7 of the Code, NCLT appointed Interim Resolution Professional (IRP), namely, Hitesh Goel with certain directions. Public announcement was ordered to be made in pursuance of section 13 (2) of the Code. The NCLT declared moratorium in terms of Section 14 of the Code. All this invited prohibitions including ---

- (a) institution of suits or continuation of pending suits or proceedings against the corporate debtor including execution of any judgment, decree or order in any court of law, tribunal, arbitration panel or other authority.

Considering the facts as described above, no reason to continue with execution proceedings by this forum (A.O). I allow the prayer of the JD/respondent to adjourn this matter sine die i.e. subject to order passed by the NCLT or tribunal etc. regarding insolvency proceedings.

File be consigned to the record room, with direction not to weed out the same, till further orders.


(Rajender Kumar)
Adjudicating Officer
26.07.2023