



NATIONAL COMPANY LAW TRIBUNAL
NEW DELHI BENCH (COURT-II)

(IB)-642(ND)/2022

IN THE MATTER OF:

Mr. Vinay Kushwaha & Ors.

S/o S.S. Kushwaha

R/o. Village & Post Dhanikhera,

District Unnao, Uttar Pradesh

...Applicant/Financial Creditor

VERSUS

M/s. Unibera Developers Private Limited

Office at:

2 Jay House, Bihari Park,

Devli Road, Khanpur,

West Delhi, New Delhi - 110062

Also at:

A-11a, 2nd Floor,

Sector 58, Noida

Uttar Pradesh - 201301

...Respondent

Section: 7 of IBC, 2016

Order Delivered on: 18.01.2023

CORAM

SH. ASHOK KUMAR BHARDWAJ, HON'BLE MEMBER (J)

SH. L. N. GUPTA, HON'BLE MEMBER (T)

PRESENT:

For the Applicant : Adv. Snigdha Lal

For the Respondent : Adv. Aditya Gauri, Adv. Amar Vivek



ORDER

PER: SHRI L. N. GUPTA, MEMBER (T)

Mr. Vinay Kushwaha & Ors. (for brevity, the '**Applicants/ Financial Creditors**') has filed the present application under the Section 7 of the Insolvency and Bankruptcy Code, 2016 (for brevity, the 'IBC, 2016') read with Rule 4 of the Insolvency and Bankruptcy (Application to Adjudicating Authority) Rules, 2016 with a prayer to initiate the Corporate Insolvency process against M/s. Unibera Developers Private Limited (the '**Respondent**').

2. The necessity of going into the merit of the claims made by the Applicants in the captioned Petition is obviated, as in respect of the same Corporate Debtor namely, M/s Unibera Developers Private Limited, this Bench has already initiated CIR Process under the IBC, 2016 in another Petition "(IB)-505(ND)2022 M/s. Mahi Buildhome Private Limited Vs. M/s. Unibera Developers Private Limited" vide Order dated 13.01.2023. As per the provisions contained in the Section 11 of the IBC Code, 2016, another Corporate Insolvency Resolution Process cannot be initiated against a Corporate Debtor, that is already undergoing a Corporate Insolvency Resolution Process.

3. Hence, the Financial Creditors of the present application (IB)-642(ND)/2022 would be entitled to file their claims before the Insolvency Resolution Professional (IRP) Mr. Ashok Kumar Jalan



(Email:akjalan@jalanca.com) having Registration No. IBBI/IPA-001/IP-P00168/2017-18/10337, already appointed in C.P. No. (IB)-505(ND)2022, in accordance with law, which shall be duly considered.

4. The Registry is directed to communicate a copy of this Order to the IRP Mr. Ashok Kumar Jalan (Email:akjalan@jalanca.com), Financial Creditors of (IB)-642(ND)/2022 and the Corporate Debtor immediately.

5. It is, however, made clear that if CIR Process initiated in the C.P. No. (IB)-505(ND)2022 is terminated for any reason, the Petitioners would be at liberty to seek revival of the present application.

6. The petition is disposed of in the abovesaid terms.

Sd/-
(L. N. GUPTA)
MEMBER (T)

Sd/-
(ASHOK KUMAR BHARDWAJ)
MEMBER (J)