

**NATIONAL COMPANY LAW APPELLATE TRIBUNAL**

**PRINCIPAL BENCH**

**NEW DELHI**

**COMPANY APPEAL (AT)(Ins) NO.315 OF 2024**

**In the matter of:**

Noma Infrastructure Pvt Ltd

Appellant

Vs

Sushil Govindrao Uttarwar & Ors

Respondent

For appellant: Dr U.K> Chaudhary, Sr.Advocate, Mr Mansumyer Singh, Dr. BS Nagar, Advocate.

For Respondent:Mr. Mr Manoj Mishra, Mr Sanjay Lalit, Advocates R2.

Mr. Abhimanyu Bhandari, Mr Harshit Khanduja, Advocates for R4.

Mr Santosh Kumar, Advocate for R3.

**ORDER**

**HYBRID MODE**

**26.02.2024:** The issue raised by the Learned counsel for the Appellant in this appeal is the impugned order dated 12.01.2024 has been passed ignoring the procedure prescribed under Section 27 of the I&B Code, 2016. Section 27 of I&B Code read as under:-

***"27. Replacement of resolution professional by committee of creditors. –***

*(1) Where, at any time during the corporate insolvency resolution process, the committee or creditors is of the opinion that a resolution professional appointed under section 22 is required to be replaced, it may replace him with another resolution professional in the manner provided under this section.*

*(2) The committee of creditors may, at a meeting, by a vote of sixty-six per cent of voting shares, resolve to replace the resolution professional appointed under section 22 with another resolution professional, subject to a written consent from the proposed resolution professional in the specified form.*

*(3) The committee of creditors shall forward the name of the insolvency professional proposed by them to the Adjudicating Authority.*

*(4) The Adjudicating Authority shall forward the name of the proposed resolution professional to the Board for its confirmation and a resolution professional shall be appointed in the same manner as laid down in section 16.*

*(5) Where any disciplinary proceedings are pending against the proposed resolution professional under sub-section (3), the resolution professional appointed under section 22 shall continue till the appointment of another resolution professional under this section.”*

It is submitted the appellant is one of the financial creditor(s), and holds approximately 50% of voting shares. Learned counsel for the Appellant is also aggrieved by the fact IA No.134/2024 was disposed of without any issuing notice to the appellant. Learned counsel for the previous RP is also present and submits that he had already moved an application under Section 19(2) and 19(3) of the IB Code for issuance of necessary directions to the suspended Board of Directors of the Corporate Debtor to comply with the order and to hand over the possession of the premises, but due to the conduct of suspended director he could not take possession.

The allegations are rebutted by the learned counsel for R2 and he further submits the earlier RP had himself recused, though he replies it was because of pressure as allegations (personal) were levelled against him and in any case procedure was never followed.

Let reply be filed within two weeks from today and Rejoinder, if any, be filed within two weeks thereafter.

List the appeal on **29.04.2024**.

In the meanwhile primarily as Section 27 of the Code was not adhered to, hence the order dated 12.01.2024 shall remain stayed till next date.

**(Justice Yogesh Khanna)**  
**Member (Judicial)**

**(Mr Ajai Das Mehrotra)**  
**Member (Technical)**

**Bm/kam**