

**IN THE NATIONAL COMPANY LAW TRIBUNAL
KOCHI BENCH**

IA(IBC)/515/KOB/2023

IN

CP(IBC)/54/KOB/2022

*(Under Section 33(2) of the Insolvency
Bankruptcy Code, 2016).*

In the matter of:

ASTEN REALTORS PRIVATE LIMITED.

MEMO OF PARTIES:

Mr.Rajendran P.R., Resolution Professional of
Asten Realtors Private Limited, 186/7,
Padinjare Parippil, Kulayettikkara P.O.,
Ernakulam, Kerala- 682 317. Email: -
ekmagasti@gmail.com.

... Applicant

-Vs-

Mr. Chandy John Samuel, S/o. Samuel
Chandy John, Residing at Cadavanalthara,
Kodukulanji P.O, Chengannure, Alappuzha -
689 508. Represented by his Power of
Attorney Holder Mr. John Mathew, residing
at TC 27/856, Arambankudiyil House,
Kannanthodath Lane, Opp. Chengampuzha
Park, Edappally, Ernakulam District, Kerala-
682 033.

In the Original matter of: -

1.Chandy John Samuel, S/o. Samuel Chandy
John, Residing at Cadavanalthara,
Kodukulanji P.O, Chengannure, Alappuzha -
689 508.



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CP(IBC)/54/KOB/2022

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2. Dr. Dane Chandy, Medical Practitioner,
W/o. Chandy John Samuel, Cadavanalthara,
Kodukulanji P.O, Chengannure, Alappuzha –
689 508.

3. Pinnacle Piling (India) Private Limited,
Registered office at 9, Dinar Building, Ground
Floor, Station Road, Santa Cruz West Mumbai
MH 400 054. Represented by the Managing
Director Saikumar E K, S/o. Narayanan
Nambiar, Residing at Ragam Veedu, Ponothu
Road, Kaloar, Ernakulam – 682 017.

... Financial Creditors.

-Vs-

M/s. Asten Realtors Private Limited, CIN No:
U45200KL2011PTC028812, No. 33/2440 F,
compass Chakkaraparambu, NH 47 By-Pass,
Thammanam P.O, Kochi, Ernakulam, Kerala –
682 032.

... Corporate Debtor

Order delivered on: 19.11.2024

Coram:

Hon'ble Member (Judicial) : Shri. Jyoti Kumar Tripathi.

Hon'ble Member (Technical) : Shri. Ravichandran Ramasamy.

Appearances:

For the Applicant : Mr. Vinod P.V., Adv.,

For the Respondent : None appeared.

ORDER

Per: Coram



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1. The present application is filed by the Applicant being the Resolution Professional (hereinafter referred to as "RP") under Section 33(2) of the Insolvency and Bankruptcy Code, 2016 (hereinafter referred to as the "Code") for passing an order of liquidation of the Corporate Debtor, M/s. Asten Realtors Private Limited excluding those assets for which Resolution Plans have been approved, if any, by this Tribunal in IA(IBC)/(492)/KOB/2023 and IA(IBC)/493/KOB/2023 and appointment of a Liquidator for the liquidation of the Corporate Debtor.
2. The facts as narrated in the application and explained by the RP are summarized hereunder:
 - i. The Financial Creditors Mr. Chandy John Samuel and Others had applied to Section 7 of the Code to initiate a Corporate Insolvency Resolution Process (hereinafter referred to as the 'CIRP'), against the Corporate Debtor M/s. Asten Realtors Private Limited was admitted vide order dated 25.01.2023 and appointed Shri. Rajendran P.R. as Interim Resolution Professional.
 - ii. The Interim Resolution Professional made a public announcement inviting claims and published it in Newspapers on 29.01.2023 and 30.01.2023. On 08.02.2023 the Interim Resolution Professional appointed valuers to conduct the valuation of the assets of the Corporate Debtor



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and the same date is the last date for receipt of Claims as per the Public Announcement.

- iii. The 1st meeting of the Committee of Creditors was held on 25.02.2023 and the Committee of Creditors confirmed the appointment of Interim Resolution Professional as the Resolution Professional and this Tribunal approved the appointment on 25.03.2023 in IA(IBC)/109/KOB/2023.
- iv. Subsequently on 28.03.2023 the Applicant/Resolution Professional invited EOI to submit the Resolution Plans. The Applicant/Resolution Professional received EOI from four Prospective Resolution Applicants. The Applicant/Resolution Professional has received two project-wise Resolution Plans for the Project Asten Nautica from Nautica Home Buyers Welfare Association and Asten Rajagiri Campus Court from Rajagiri Campus Court Home Buyers Welfare Association. No Resolution Plan was received for the third Project, Asten Aurum Woods, and for the remaining assets.
- v. The Applicant/Resolution Professional stated that the CIRP was extended for a further period of 90 days commencing from 24.07.2023 to 22.10.2023 by this Adjudicating Authority vide order dated 27.07.2023 in IA(IBC)287/KOB/2023. On 09.10.2023, the Prospective Resolution Applicants submitted the modified Resolution Plans considering the



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recommendations/objections/suggestions made by the Committee of Creditors and the Applicant/Resolution Professional.

- vi. The 8th meeting of the Committee of Creditors was conducted on 16.10.2023 approved the two Resolution Plans with 78.39% voting rights and resolved to invite further EOI for the third Project "Aurum Woods" and also for the remaining assets of the Corporate Debtor.
- vii. It is stated that this Tribunal granted an extension of 60 days i.e. from 23.10.2023 to 21.12.2023 to complete the CIRP Process in IA(IBC)/433/KOB/2023. On 18.10.2023, the Resolution Professional invited EOI to submit a Resolution Plan for the remaining Project and the Assets, the Resolution Professional received no EOI till the last date of submission of the EOI.
- viii. The 10th meeting of the Committee of Creditors was convened on 10.11.2023 in which the Committee of Creditors agreed to liquidate the remaining assets of the Corporate Debtor.
- ix. It is stated that the Applicant/ Resolution Professional filed the Resolution Plans of Rajagiri Campus Court Home Buyers Welfare Association" vide Interlocutory Application No. IA(IBC)/493/KOB/2023 and 'Asten Nautica Home Buyers Welfare Association" vide Interlocutory Application No. IA(IBC)/492/KOB/2023 and the Resolution Plans were



approved by this Adjudicating Authority vide Order dated 14.08.2024.

- x. It is stated that the Committee of Creditors in the voting held on 27.11.2023, the Committee of Creditors with 78.39% voting approved the Resolution for Liquidation of the remaining assets of the Corporate Debtor excluding the assets in which the Resolution plan has been approved. Hence, the present application is being filed for Liquidation of the remaining assets of the Corporate Debtor excluding the assets for which the Resolution Plan has been approved.

3. FINDINGS: -

4. We have heard the learned Applicant/Resolution Professional and reviewing the case records, we note that the Corporate Debtor's CoC approved, with 78.39% voting, the liquidation of remaining assets, excluding those covered by the approved Resolution plan resolved to apply to this Adjudicating Authority for liquidating the Corporate Debtor.
5. For the sake of ready reference, the relevant provision of Section 33(2) of the Code, which is applicable is reproduced hereunder: -

(2) Where the resolution professional, at any time during the corporate insolvency resolution process but before confirmation of resolution plan, intimates the Adjudicating Authority of the decision of the committee of creditors [approved by not less than 66% of the voting share] to liquidate the corporate debtor, the Adjudicating



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Authority shall pass a liquidation order as referred to in sub-clauses (i), (ii) and (iii) of Clause (b) of sub-Section (1).

[Explanation: for the purposes of this sub-section, it is hereby declared that the committee of creditors may take the decision to liquidate the corporate debtor, any time after its constitution under sub-section (1) of Section 21 and before the confirmation of the resolution plan, including at any time before the preparation of the information memorandum].

6. Considering the documents and submission made by the Resolution Professional, since the COC in its commercial wisdom has resolved to take the Corporate Debtor in liquidation, we are of the opinion that the decision of the COC should not be interfered with. The present application seeking liquidation of the Corporate Debtor M/s. Asten Realtors Private Limited., in the manner laid down in Chapter III of Part II of the Code is allowed.
7. The Committee of Creditors has not recommended for appointment of the Applicant/Resolution Applicant to act as liquidator of the Corporate Debtor of remaining assets, excluding those covered by the approved Resolution plan.
8. This Bench appoints **Mr. Padmakumar K.C.**, having registration No. IBBI/IPA-001/IP-P01021/2017-2018/11671, office at T.C.15/1997(3) Fair Dreams Women's College North Gate, Thiruvananthapuram, Kerala- 695 014 Email: -



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padmakumarkc@gmail.com to act as Liquidator under Section 34 of IBC, 2016 with the following directions:

- i. The Resolution Professional shall hand over the relevant documents and control of the Corporate Debtor to the liquidator appointed forthwith, except in case where RP continues as the liquidator.
- ii. The Liquidator is directed to forthwith take into his custody all the assets, properties, and actionable claims of the corporate debtor and take necessary steps to ensure the preservation, protection security and maintenance of those properties as provided under section 35(1)(b) & (d) of IBC 2016.
- iii. The Liquidator is directed to adhere to Section 33(1) (ii) & (iii) and discharge his powers and duties as specified under Section 35 to 41 of IBC, 2016 and meticulously adhere to the Rules and Regulations issued by IBBI in this regard from time to time.
- iv. Public Notice as contemplated under section 33(1) of the Code shall be issued in one morning, English daily and in one-morning regional language newspapers.
- v. All the powers of the Board of Directors of the Corporate Debtor and of its key managerial personnel, shall cease to exist in accordance with Section 34 (2) of the Code. These powers shall henceforth vest in the Liquidator. The personnel of the Corporate Debtor shall extend all assistance and



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cooperation to the Liquidator as may be required by him in the Liquidation process of the Corporate Debtor.

- vi. On initiation of the Liquidation process but subject to section 52 of the Code, no suit or other legal proceeding shall be instituted by or against the Corporate Debtor, save and except the liberty to the liquidator to institute a suit or other legal proceeding on behalf of the Corporate Debtor with prior approval of this Adjudicating Authority, as provided in section 33(5) of the Code read with its proviso.
- vii. In accordance with section 33(7) of the Code, this liquidation order shall be deemed to be a notice of discharge to the officers, employees, and workmen of the Corporate Debtor, except to the extent of the business of the Corporate Debtor continued during the liquidation process by the liquidator.
- viii. In terms of Section 33(1) (b) (iii), the Liquidator shall file a copy of this Order with the Registrar of Companies, Kerala, within whose jurisdiction the Corporate Debtor is registered.
- ix. The fee of the Liquidator is to be determined as provided under Regulation 4 of Insolvency and Bankruptcy Board of India (Liquidation Process) Regulation 2016.
- x. As per Regulation 13 of Insolvency and Bankruptcy Board of India (Liquidation Process) Regulation, 2016, the liquidator shall submit a preliminary report to the Adjudicating Authority within 75 days from the liquidation



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commencement date providing various details/information as mentioned in the said regulation.

9. This Bench appointed Liquidator is directed to file his written consent in Form AA, within one week from the date of receipt of this Order.
10. The Registry is directed to send e-mail copies of the order to the party and their learned counsel for information and to take necessary steps.
11. Let the certified copy of the order be issued upon compliance with requisite formalities.
12. File be consigned to records.

SD/-

RAVICHANDRAN RAMASAMY

(MEMBER TECHNICAL)

SD/-

JYOTI KUMAR TRIPATHI

(MEMBER JUDICIAL)

Dated this the 19th day of November, 2024.

Rajasree R. Nair/LRA.

Certified to be True Copy

20.11.24

Deputy Registrar

*National Company Law Tribunal
Kochi Bench*

