

NATIONAL COMPANY LAW TRIBUNAL,
MUMBAI BENCH COURT VI

Item No. 02

IA (I.B.C)/ 3383(MB)2024, IA(I.B.C)/ 3384(MB)2024, IA(I.B.C)/
3600(MB)2024, IA(I.B.C)/ 3601(MB)2024, IA(I.B.C)/ 3693(MB)2024, IN
C.P. (IB)/1046(MB)2023

CORAM

SHRI SANJIV DUTT
HON'BLE MEMBER (TECHNICAL)

SHRI K. R. SAJI KUMAR
HON'BLE MEMBER (JUDICIAL)

ORDER SHEET OF HEARING (HYBRID) DATED **07.08.2024**

NAME OF THE PARTIES : **Mr. Santosh Shetty**

Vs

Snehanjali And S.B. Developers
Private limited

For Applicant

(In IA 3383/2024 & 3384/2024) : Adv. Yash Dhruva,
Adv. Niyati Merchant i/b MDP Legal

For Applicant

(In IA 3600/2024): Sr. Adv. Gaurav Joshi a/w Adv.
Tejas Agarwal a/w Adv. Anant
Ratna Parkhi a/w Adv. Aman Agarwal

For Applicant

(In IA 3601/2024, IA 3693/2024): Adv. Rohit Gupta a/w Adv. Tejas
Agarwal a/w Adv. Anant Parkhi
a/w Adv. aman Agarwal i/b IC Legal

For Respondent

(In IAs 3600/2024, 3601/2024,
3693/2024) : Adv. Shyam Kapadia, Adv.
Yash Dhruva, Adv. Niyati Merchant
i/b MDP Legal

Section 7 of IBC

ORDER

IA 3693/2024

1. This IA stands originally listed on 08.08.2024. However, as mentioned by the Counsel for the Applicant, the listing is advanced to today's Board.
2. The Counsel raised concern that the RP has put additional condition stating that the existing home buyers and past developers associated with the CD as well as related entities are not eligible to submit Resolution Plan, besides the ineligibility of persons submitting the Resolution Plan under Section 29A of the IBC in the Expression of Interest in Form G. He submits that this additional condition has no legal basis and is prejudicial to the interests of the home buyers/ past developers, as eligibility or otherwise for submitting Resolution Plan will have to be decided at a later stage while the RP prepares provisional list of prospective resolution applicants.
3. However, Counsel for the Respondent/RP submits that the additional condition was incorporated in Form G in exercise of the powers of the RP to lay down conditions under Section 25(2)(h) of the IBC, that too as decided by the CoC with 100% voting. The CoC consists of only home buyers and is represented by the Authorised Representative (AR).
4. Heard both the Counsel for the Applicant and Respondent. Having considered the issue, we feel that duty of the RP under Section 25(2)(h) of the IBC is to undertake invitation of prospective resolution applicants from those who fulfil such criteria as may be laid by him with the approval of CoC, **having regard to the complexity and scale of operations of the business of the CD and other conditions specified by the Insolvency and Bankruptcy Board of India (IBBI).** The Counsel for RP has not brought to our notice that the criterion of avoiding the existing home buyers and past developers associated with the CD as well as their related entities is laid down by the RP **having regard to the complexity and the scale of operation of the business of the CD or in pursuance of any other condition made by the IBBI**

by way of Regulations. Since the CD is into the construction business, keeping away some homebuyers and past developers of the CD's business at the present stage from submitting Resolution Plans does not appear to be justifiable. The eligibility or otherwise of the prospective resolution applicants will have to be tested against the provisions contained in Section 29A of the IBC. Hence, at present, it is not for the RP to lay down such a criterion. On the above prima facie consideration, we direct the RP not to open the Resolution Plan, reported to have been scheduled for today, till further orders. **List the main C.P. on 08.08.2024 for hearing along with the all IAs.**

Sd/-
SANJIV DUTT
MEMBER (TECHNICAL)
//SMM//

Sd/-
K. R. SAJI KUMAR
MEMBER (JUDICIAL)

