

**NATIONAL COMPANY LAW APPELLATE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI**

**Company Appeal (AT) (Insolvency) No.151 of 2023
& I.A. No. 680 of 2023**

IN THE MATTER OF:

Vishwajeet Subhash Jhavar

...Appellant

Versus

ICICI Home Finance Company Ltd. & Anr.

...Respondents

Present:

**For Appellant: Mr. Abhijeet Sinha, Mr. Dhaval Deshpande and
Mr. Amir Arsiwala, Advocates.**

**For Respondents: Mr. Krishnendu Datta, Sr. Advocate with Mr.
Nitesh Jain, Mr. Rajat Jariwala, Ms. Rashi
Goswami, Ms. Vatsala Kumar, Ms. Shreya Mundra
and Ms. Shatakshi Tripathi, Advocates for R-1.**

Mr. Satendra K. Rai, Advocate for R-2.

ORDER

02.08.2023: This Appeal has been filed against the order dated 24.01.2023 by which Section 7 application filed by the ICICI Home Finance Company Ltd. has been admitted. The Adjudicating Authority, by the impugned order, appointed the IRP and directed to deposit Rs.5 Lakhs by the Financial Creditor towards initial CIRP cost. The Appeal was filed and entertained by this Tribunal and on 13.02.2023 following order was passed:

“ORDER

13.02.2023: *Learned Counsel for the Appellant submits that on 09.12.2022 there was settlement entered between the parties. Demand Draft of Rs.18.50/- crores was to be paid which was brought*

Cont'd.../

in the Court but could not be taken. It is submitted that Appellant is still in talk with the Respondent with regard to settlement and is ready to pay the interest amount also. It is further submitted that Appellant will pay Rs.10 crores by 16th February, 2023 by Bank Draft and rest of the payment of Rs.8.50 crores within further one week.

2. Learned Counsel for the Respondent is refuting the submission of the Appellant with regard to settlement and tendering of the Demand Draft. List this appeal on 28.02.2023.

3. Learned Counsel for the Appellant shall file the affidavit bringing on record the details of payment.

4. In the meantime, CoC shall not be constituted in pursuance of the impugned order till the next date.

5. We make it clear that in the event of Rs.10 crores is not paid, the interim order shall stand discharge.”

2. Now an I.A. has been filed being I.A. No.3529 of 2023 by which the parties have brought on record Consent Terms between the parties dated 31.07.2023. Learned counsel for the Appellant as well as learned counsel appearing for the Financial Creditor submit that parties have settled their dues and the CIRP be closed.

3. Learned counsel for the IRP submits that direction be issued to make payment of fee and expenses of the IRP. It is submitted that the IRP's fee and expenses is Rs.38,57,837/-.

4. Learned counsel for the Financial Creditor submits that the amount of Rs.5 Lakhs as directed by the Adjudicating Authority has already been paid to the IRP.

5. We are of the view that the IRP for his fee and expensed may file an appropriate application before the Adjudicating Authority. The Adjudicating Authority shall consider the application and pass appropriate orders.

7. Learned counsel for the Financial Creditor submits that the amount deposited under the order dated 13.02.2023 and 16.02.2023 i.e. total amount of Rs.18.50 Crores has to be appropriated by the Financial Creditor.

8. Let the amount deposited under the order dated 13.02.2023 and 16.02.2023 be appropriated by the Financial Creditor.

9. In view of the aforesaid, we are of the view that settlement having entered between the parties, no purpose shall be served in continuing the proceeding. The application is taken on record. Impugned order admitting CIRP is set aside. CIRP proceeding is closed. Appeal is disposed of.

[Justice Ashok Bhushan]
Chairperson

[Barun Mitra]
Member (Technical)

Archana/nn