

## IN THE SUPREME COURT OF INDIA

## CIVIL APPELLATE JURISDICTION

**CIVIL APPEAL NOS. 6846-6847 OF 2018**  
**(Arising out of S.L.P. (C) Nos. 18660-18661 OF 2018)**

M/S. MORPHEUS DEVELOPERS PVT. LTD.

Appellant(s)

VERSUS

M/S. GAGAN FERROTECH LTD.

Respondent(s)

**O R D E R**

Heard the learned Counsel appearing for the parties.

Leave granted.

In the present case, by way of a MOU/Deed of Settlement dated 07.06.2018, both the parties have settled the disputes between themselves.

A copy of the MOU/Deed of Settlement dated 07.06.2018 executed between the parties is made part of the record of this Court, and by using our powers under Article 142 of the Constitution of India, we set aside the impugned order dated 11.06.2018 passed by the National Company Law Tribunal, New Delhi.

We may hasten to add that the order dated 09.07.2018, which followed upon the 11.06.2018 order, is incorrect for the simple reason that under Section 12A of the Amendment Act to the Insolvency Code, which has come into force w.e.f 06.06.2018, the

**Co**ordinating Authority may allow the withdrawal of an application that has already been admitted only on approval of 90% of the voting share of the Committee of Creditors.

In the present case, since the Settlement was made before the admission order, this Section will have no application. Consequently, the order dated 09.07.2018 is also set aside.

The appeals are allowed in the aforesaid terms.

Pending applications filed in the matters also stand disposed of.

..... J.  
(ROHINTON FALI NARIMAN)

.....  
(INDU MALHOTRA)

New Delhi;  
July 20, 2018.

ITEM NO.67

COURT NO.9

SECTION XVII

S U P R E M E C O U R T O F I N D I A  
R E C O R D O F P R O C E E D I N G S

Petition(s) for Special Leave to Appeal (C) No(s). 18660-18661/2018

(Arising out of impugned final judgment and order dated 09-07-2018 in IB No. 363/2018 11-06-2018 in IB No. 363/2018 passed by the National Company Law Appellate Tribunal)

M/S. MORPHEUS DEVELOPERS PVT. LTD.

Petitioner(s)

VERSUS

GAGAN FERROTECH LTD.

Respondent(s)

(FOR ADMISSION and I.R. and IA No.97288/2018-EXEMPTION FROM FILING C/C OF THE IMPUGNED JUDGMENT and IA No.97286/2018-PERMISSION TO FILE ADDITIONAL DOCUMENTS )

Date : 20-07-2018 These petitions were called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE ROHINTON FALI NARIMAN  
HON'BLE MS. JUSTICE INDU MALHOTRA

For Petitioner(s) Mr. Shekhar Kumar, AOR

For Respondent(s) Mr. Soumya Dutta, AOR

UPON hearing the counsel the Court made the following  
O R D E R

Leave granted.

The appeals are allowed in terms of the signed order.

(R. NATARAJAN)  
COURT MASTER (SH)

(SAROJ KUMARI GAUR)  
BRANCH OFFICER

(Signed order is placed on the file)