

NATIONAL COMPANY LAW TRIBUNAL,
MUMBAI BENCH
COURT VI

Item No. 1

IA(I.B.C)/ 3600(MB)2024 IA(I.B.C)/ 3601(MB)2024 IA(I.B.C)/
4112(MB)2024 IA(I.B.C)/ 4129(MB)2024 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 **01.10.2024**

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

Vs

Snehanjali And S.B. Developers
Private limited

For Applicant

In IA 3600/2024,

IA 3601/20024 : Adv. Rohit Gupta a/w Tejas Agrawal
a/w Aman Agrawal i/b IC Legal

IA 4112/2024 : Adv. Saurabh Gandhi a/w Adv. Atiksha Jain
i/b HN Legal.

IA 4129/2024 : Adv. Yash Dhruva, Niyati Merchant i/b MDP Legal

For Respondent

No.1 in IA 4129/2024 : Adv Vedant Chhajed.

For Respondent/RP

IN IA 3600/2024,

IA 3601/2024,

IA 4112/2024

: Adv. Shyam Kapadiya, Nishit Dhruva,
Yash Dhruva, Niyati Merchant i/b MDP
Legal.

Section 7 of IBC

ORDER

IA (I.B.C.)/3600(MB)/2024 and IA (I.B.C.)/3601(MB)/2024

1. These matters are listed for written submissions today. Both the Counsel for Applicants and Respondent tendered their respective written submissions.
2. Counsel for Applicants raised an urgent issue that requires our attention. He submitted that in the last (6th) COC meeting dated 27.09.2024, convened for discussing the Resolution Plans, there was no specific agenda regarding e-voting for Resolution Plans. He tendered a copy of an email dated 30.09.2024 sent at 10:35 hrs by the e-voting agency to Mr. Harsh Savla, one of the PRAs, stating that the e-voting commenced on 30.09.2024 at 10:00hrs and shall end at 17:00 hrs on 02.10.2024. It is further submitted by him that Applicants were entitled to be informed in advance regarding the date and time of beginning of the e-voting. According to him, the conduct of the Resolution Professional (RP) and the Authorised Representative (AR) is prejudicial to his clients and not in conformity with the Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) Regulations, 2016 (CIRP Regulations).
3. In the instant matter, Committee of Creditors (CoC) consists of only the class of creditors, viz, homebuyers, represented by the AR and that there are no other financial creditors such as banks or financial institutions. According to the Counsel for Applicant, the earlier conduct of the RP and AR also had raised prejudice, which resulted in the intervention of this Tribunal in allowing Applicants to submit

Expression of Interests. He further prayed that the ongoing e-voting is required to be put on hold or the last date to be extended till these IAs are decided, as his clients were informed of the e-voting after the actual voting began. He further invited attention to a copy of an email dated 29.09.2024 from some of the homebuyers (tendered by Counsel for the RP) who requested AR to start the e-voting so that CIRP is concluded soon. According to the Counsel, such private meetings of AR with only some of the homebuyers are prejudicial to others.

4. However, Counsel for Respondent (RP) argued that information regarding e-voting was shared by the agency chosen for the purpose and that the same has not been done by RP. According to Counsel for Respondent, the RP should not be held liable for any action of the AR. Further, it is not a major issue as the voting is open till 02.10.2024 and information provided to the stakeholders after thirty-five minutes of commencement of e-voting does not have any impact on the process.
5. Having heard both the Counsel, we find that since the AR is also an Insolvency Professional (IP), he is legally bound to act in an independent and impartial manner with utmost transparency during the conduct of every process under the IBC. The Code of Conduct under Regulation 7(2)(h) read with the First Schedule to the Insolvency and Bankruptcy Board of India (Insolvency Professionals) Regulations, 2016, is equally applicable to the ARs. Further, the RP is required to have complete control over the conduct of the processes under IBC. No RP can blame the AR or any other professional for not conducting the Corporate Insolvency Resolution Process (CIRP) in accordance with law. An IP is legally bound to maintain integrity by being honest, straightforward in all professional relationships and should refrain from being involved in any action that would bring disrepute to the profession. He is further required to act with objectivity in his professional dealings by ensuring that his decisions are made without presence of any bias, coercion, or undue influence of any party in connection with CIRP. We expect utmost integrity, impartiality and independent conduct of CIRP from both the RP and the AR.

6. Having appreciated the submissions of both Counsel for Applicants and the Respondent in IA 3600/2024 and 3601/2024, we direct the RP not to announce the outcome of the ongoing e-voting until further orders.
7. Another Counsel representing certain interveners submitted that an IA has been filed by three homebuyers, viz., Himanshu Bheda HUF, Mr. Devansh Himanshu Bheda, and Ms. Shrey Himanshu Bheda, for rejecting their claims as homebuyers. It was submitted by Counsel for Respondent (RP) that the intervener's claim was rejected on 17.05.2024 itself. He further submitted that he would file reply to the IA as and when the same is filed.
8. **IA (I.B.C.)/3600(MB)/2024 & IA (I.B.C.)/3601(MB)/2024 are Reserved for Orders.**

IA (I.B.C.)/4112(MB)/2024

Counsel for Respondent has tendered Affidavit-in-Reply.

IA (I.B.C.)/4129(MB)/2024

Counsel for Respondent No.1 (Hive Carbon-Zero Developers Private Limited) submitted that he was just briefed about the matter and shall file a reply in a week.

List **IA (I.B.C.)/4112(MB)/2024 & IA (I.B.C.)/4129(MB)/2024** on **08.10.2024** for **further consideration**.

Designated Registrar is directed to make available an electronic version of this order to the Insolvency and Bankruptcy Board of India for information and record.

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

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