NATIONAL COMPANY LAW TRIBUNAL COURT ROOM NO. 1, MUMBAI BENCH

Item No. 17

IA (Liq)/109/2024 (NEW IA)

In

C.P. (IB)/277(MB)2024

CORAM:

SH. PRABHAT KUMAR JUSTICE VIRENDRASINGH BISHT (Retd.) HON'BLE MEMBER (JUDICIAL)

ORDER SHEET OF THE HEARING ON 10.12.2024

NAME OF THE PARTIES: ORCHID HOUSINGINFRA LLP

Under Sec 33 of the Insolvency and Bankruptcy Code, 2016

ORDER

- 1. Ms. Niyati Merchant, Ld. Counsel for the Applicant present.
- 2. The above application I.A. (Liq)No. 109/2024 is filed by Resolution Professional, Ms. Chetna Paresh Sutaria (hereinafter referred to as the "Applicant") seeking liquidation of Orchid Housing Infra LLP (hereinafter referred to as the "Corporate Applicant") under Section 33 (1) of the Insolvency and Code, 2016 (hereinafter called as "the Code").
- 3. The brief facts of the application are as follows:
 - a. The Applicant mentions that this Tribunal vide its order dated 10.07.2024 in Company Petition No. 277/IBC/MB/2024 admitted the petition under Section 10 of the Code, filed by Corporate Applicant itself to initiate Corporate Insolvency Resolution Process (hereinafter referred to as the "CIRP"). The Applicant was appointed as Interim Resolution

- Professional vide said order and later confirmed as Resolution Professional.
- b. Pursuant to the Public Announcement dated 13th July, 2024, the Applicant received claims from various creditors of the Corporate Debtor. Pursuant to verification of the claims received, a summary of the details of the Financial Creditors of the Corporate Debtor was prepared. the applicant submits that the applicant received four claims by the class of creditors before approval of resolution for initiation of Liquidation process of the Corporate Debtor. Subsequently, after due verification of claims the applicant has admitted the said claims. Further the Applicant is in process to file an Interlocutory Application for reconstitution of CoC due to admission of claims of class of creditor.
- c. It is submitted that during the Third CoC meeting held on 03rd September, 2024, the CoC expressed that it wishes to proceed with liquidation of the Corporate Debtor The applicant also indicated that as per the provisions of the code, the Form G (invitation of Expressions of Interest for resolution plan) shall be published for realization of objectives of the Insolvency and Bankruptcy Code, 2016 and thus the said resolution was put to vote. The Applicant further states that the said resolution was however not discussed or approved based on the directive from the major CoC member-Axis Finance Limited, who holds 96.30% of the voting rights in the Committee of Creditors (CoC) and thus the said agenda was deferred. The Applicant submits that during the 04lh CoC meeting held on 23rd September, 2024, the Applicant under the provisions of the code, put up the Resolution for publishing of Form G and calling for Expression of Interest, however the CoC Member abstained from voting on the said Resolution.
- d. The Applicant states that the Applicant received an email dated 1st October 2024 from Axis Bank requesting the Applicant to conduct Meeting with an agenda to approve the initiation of Liquidation of the Corporate

Debtor. Subsequently, during the Fifth CoC Meeting held on 03rd October. 2024, it was resolved with 96.30% votes to initiate the liquidation process of the Corporate Debtor as per Section 33(2) of the Insolvency and Bankruptcy Code. 2016 and to appoint Mr. Rajendra Ganatra as the Liquidator.

- e. The Applicant therefore submits that as there was solitary housing project which was constructed fully and the Occupancy Certificate (OC) had been received for the entire project and there is no possibility of further operations of the Corporate Debtor. The Applicant submits that the CoC in its commercial wisdom have voted to initiate liquidation process of the Corporate Debtor. The Applicant therefore submits that the Corporate Debtor be directed to be liquidated under the provisions of Section 33 (2) of the Code. The Applicant further submits that the CoC has further agreed to appoint Mr. Rajendra Ganatra having IP Registration No: IBBL1PA-0034P-N00049/2017- 18/10363, to be appointed as the liquidator to carry out the liquidation process of the Corporate Debtor in terms of the provisions of the Code.
- 4. After hearing the submissions made by the Counsel appearing for the Applicant and upon perusing the material available on record, this bench is of the opinion that the Corporate Debtor is required to be liquidated in the manner as laid down in the IBC 2016.

ORDER

5. The above I.A. (Liq) No. 109/2024 is allowed and the Corporate Debtor Orchid Housing LLP is ordered to be liquidated as a going concern for the first attempt and if it fails, then sale by other methods should be tried.

- a. **Mr. Rajendra Ganatra**, having Registration No. IBBI/PA-003/P-N00049/2017- 18/10363, is hereby appointed as the Liquidator as provided under Section 34(1) of the Code.
- b. That the Liquidator for conduct of the liquidation proceedings would be entitled to the fees as provided in Regulation 4(2)(b) of the IBBI (Liquidation Process Regulations), 2016 or as decided by the SCC.
- c. The Liquidator appointed in this case to initiate liquidation process as envisaged under Chapter-III of the Code by following the liquidation process given in the Insolvency & Bankruptcy Board of India (Liquidation Process) Regulations, 2016.
- d. The Liquidator appointed under section 34(1) of the Code. All powers of the board of directors, key managerial personnel and the partners of the Corporate Debtor, as the case may be, shall cease to have effect and shall be vested with the liquidator.
- e. That the Corporate Debtor to be liquidated in the manner as laid down in the Chapter by issuing Public Notice stating that the Corporate Debtor is in liquidation with a direction to the Liquidator to send this order to the ROC under which this Company has been registered.
- f. That the personnel of the Corporate Debtor are directed to extend all cooperation to the Liquidator as required by him in managing the liquidation process of the Corporate Debtor.
- g. That on having liquidation process initiated, 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 suit or other legal proceeding on behalf of the Corporate Debtor with prior approval of this Adjudicating Authority.
- h. This liquidation order u/s 33(7) 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.

- i. The liquidator shall be at liberty to pursue pending the Interlocutory Application pertaining to avoidance transactions, if any.
- j. With the above directions, the I.A. (Liq) No.109/2024 filed u/s33 (1) by the applicant is hereby allowed and disposed of.

Sd/PRABHAT KUMAR
MEMBER (TECHNICAL)
Rohit Nanepag

Sd/-JUSTICE VIRENDRASINGH BISHT MEMBER (JUDICIAL)