

NATIONAL COMPANY LAW APPELLATE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI

Company Appeal (AT) (Ins.) No. 676 of 2022

IN THE MATTER OF:

Ajay Singal

....Appellant

Vs.

Gaurav Katiyar
Interim Resolution Professional of GRJ Distributors
and Developers Pvt. Ltd. & Ors.

...Respondents

Present:

For Appellant: Mr. Vivek Kohli, Sr. Advocate with Mr. Sandeep Bhuraria, Mr. Parijat Singh, Purbasha Panda, Advocates

**For Respondents: Mr. Rishabh Jain, IRP
Mr. Gaurav Katiyar (IRP, in-person)
Mr. Piyush Singh and Ms. Aditi Sinha, Advocates for R-2 to 47.**

ORDER
(Virtual Mode)

13.06.2022: Heard Learned Senior Counsel Mr. Vivek Kohli is appearing for the Appellant. It is the contention of the Learned Senior Counsel for the Appellant that the Appellant is disputing the findings of the Adjudicating Authority at paragraph 7 of the Impugned Order and according to him the threshold limit of 10% as observed by the Adjudicating Authority that the instant case was crossed over with incorrect findings because it is less than the threshold limit.

As such, the main petition Comp. App. (AT) (Ins.) No. 676 of 2022 is perse not maintainable in the eye of law. Per contra, it is the submission of Learned Counsel for Respondent Nos. 2 to 47 that the observation of the Adjudicating Authority, as seen from paragraph 7 of the Impugned Order, to the effect that their total unit in the project cross 338 limits and the Financial Creditors have crossed the threshold limit of 10% under correct conclusion and there is no infirmity in this regard.

In view of the divergent stand taken by the Learned Counsels appearing for the respective parties, this 'Tribunal' is of the considered view that the threshold limit aspect/issue is to be examined in detail by this 'Tribunal'.

At this juncture, on behalf of the Respondent No. 1/ Interim Resolution Professional, it is brought to the notice of this 'Tribunal' by Mr. Rishabh Jain Learned Counsel, that till date CoC is not constituted and further that there is a SARFAESI charge pending are there in the subject property.

Be that as it may, till the next date of hearing, this 'Tribunal' directs the implementation of the Impugned Order dated 03.06.2022 passed in IA Nos. 5701/2021, 5702/2021, 5703/2021 & 5704/2021 in Comp. App. (AT) (Ins.) No. 676 of 2022 on the file of Adjudicating Authority (National Company Law Tribunal, New Delhi, Bench-III) shall remain stayed.

The Learned Counsel for the Appellant is required to serve the 'Appeal Paper Book(s)/ Material Papers to the Learned Counsel for the Respondent No. 1 to 47 through the latest email address, to be furnish by them, within two days from today so as to file Reply/ Response by Respondents.

After receipt of copy of 'Reply/ Response', it is open to the Learned Counsel for the Appellant to file 'Rejoinder', on both modes before the 'Office of the Registry' and to serve copy of the same to the other side, without fail (if not already supplied).

The 'Registry' is directed to List the matter on **18th July, 2022**.

[Justice M. Venugopal]
Member (Judicial)

[Kanthi Narahari]
Member (Technical)

sa/rr/md

Comp. App. (AT) (Ins.) No. 676 of 2022