

**IN THE NATIONAL COMPANY LAW TRIBUNAL
DIVISION BENCH, (COURT I)
KOLKATA BENCH**

CP (IB) NO. 27/KB/2026

***An Application under Section 7 of the Insolvency and Bankruptcy
Code, 2016, and Rule 4 of the Insolvency and
Bankruptcy(Application to Adjudicating Authority) Rules, 2016.***

IN THE MATTER OF:

BANK OF INDIA

...Financial Creditor / Petitioner

Versus

BAHUBALI REALBUILD PRIVATE LIMITED

...Corporate Debtor / Respondent

Date of Pronouncement: 18.05.2026

CORAM:

SMT. BIDISHA BANERJEE: MEMBER (JUDICIAL)

CMDE. SIDDHARTH MISHRA: MEMBER (TECHNICAL)

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APPEARANCE:

For the Financial Creditor

Ms. Sanjana Nandi, Adv.

ORDER

Per: Siddharth Mishra, Member (Technical)

1. This Court congregated through hybrid mode.
2. Heard the Learned Counsel for the Financial Creditor.
3. This Adjudicating Authority vide order dated 06.02.2026 directed the Registry to issue notice to the Corporate Debtor (herein refer to as “**CD**”) and upon receipt of the notice, the CD was directed to file a reply affidavit within a period of two weeks. Thereafter, vide order dated 23.04.2026 the matter was set ex-parte as none appears for the CD despite repeated opportunities and the CP was reserved for order.
4. **FACTUAL MATRIX:**
 - 4.1 The present Company Petition has been filed by the Financial Creditor under Section 7 of the Insolvency and Bankruptcy Code, 2016 (“IBC”) seeking initiation of Corporate Insolvency Resolution Process (“CIRP”) against the Corporate Debtor, Bahubali Realbuild Pvt. Ltd., as a Corporate Guarantor of Sunbeam Dealers Pvt. Ltd., the Principal Borrower.
 - 4.2 The CD is a private limited company incorporated under the provision of the Companies Act, 1956, having CIN No. U45400WB2011PTC170429, its registered address is at Flat No- B 112, Nehru Colony, Kolkata- 700040. It is involved in construction of Buildings.
 - 4.3 The CD stood as a corporate guarantor for the credit facilities extended to Sunbeam Dealers Pvt. Ltd. (“Principal Borrower”/ “PB”).

The Financial Creditor had initially sanctioned a cash credit facility of Rs. 2,50,00,000/- on 26.09.2014, which was later enhanced to Rs. 10,00,00,000/- on 30.09.2016. The Borrower, along with the guarantors including the CD, executed various loan and security documents and created an equitable mortgage by deposit of title deeds to secure the facility.

- 4.4 Despite availing the facilities, the Borrower failed to adhere to repayment obligations and the loan account was classified as Non-Performing Asset ("NPA") on 30.04.2018. As on 17.10.2025, a sum of Rs. 17,54,26,237.99/- including interest is due and payable by the borrowers. Hence, the present application is filed for appropriate orders against the CD.

5. SUBMISSIONS ON BEHALF OF THE FINANCIAL CREDITOR

- 5.1 Ld. Counsel submit that the Bank had extended financial assistance to Sunbeam Dealers Private Limited by sanctioning a cash credit facility of Rs. 2.50 crore on 26.09.2014 for its business operation. The PB executed the necessary loan and security documents along with its guarantors. A copy of the Sanction letter dated 26.09.2014 is attached in the petition as Annexure- "A-3"
- 5.2 Ld. Counsel submit that the PB has executed a document, namely, Demand Promissory Note dated 26.09.2014, whereby the PB had promised to pay the Bank the sum of Rs. 2.5 crore together with interest. A copy of the Demand Promissory note dated 26.09.2014 is attached in the petition as Annexure- "A-4".
- 5.3 Ld. Counsel submit that the PB approached the Bank for enhancement of the Credit Cash Loan Facility to Rs. 10 crore which was sanctioned by the Bank on 30.09.2016. A copy of the Sanction Letter dated 30.09.2016 along with board resolution dated 28.09.2016 are attached in the petition as Annexure- "A-5".

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- 5.4 Ld. Counsel submit that after the sanction of the said above loan the PB executed D.P Note dated 30.09.2016 and accepted the terms and conditions for sanction of the said credit facility. A copy of the documents are attached as Annexure- "A-6.
- 5.5 Ld. Counsel submit that the CD herein had executed a Deed of Guarantee dated 30.09.2016 in favour of the Financial Creditor, whereby it irrevocably and unconditionally guaranteed the due repayment of the credit facilities availed by the Principal Borrower. Under the terms of the said Deed of Guarantee, the Corporate Debtor further undertook to pay to the Applicant Bank, within two days of demand, all sums of money that may at any time become due and payable by the Borrower in respect of the said credit facilities. A copy of the Deed of Guarantee dated 30.09.2016 is attached as Annexure- "A-7".
- 5.6 Ld. Counsel submit that the PB accepted the terms and conditions governing the sanction of the aforesaid credit facilities and, in acknowledgment thereof, executed the requisite loan and security documents, including Form L-444 being the Acknowledgment of Debt/Securities dated 30.09.2016. A copy of the same is attached as Annexure- "A-8".
- 5.7 Ld. Counsel submit that in order to secure the said credit facilities, the Borrower created an equitable mortgage by deposit of title deeds in respect of its immovable properties. The said equitable mortgage was recorded by the Applicant Bank as an Oral Assent dated 30.09.2016.
- 5.8 Ld. Counsel submit that the Borrower had agreed to repay the amounts availed under the sanctioned facilities together with interest at the prevailing rate of 11.25% per annum with monthly rests, subject to variation in accordance with the directives, guidelines, and circulars issued by the Reserve Bank of India from time to time.

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- 5.9 Ld. Counsel submit that despite availing the aforesaid credit facilities, the Borrower committed persistent defaults in adhering to the repayment obligations and schedule. The Applicant Bank repeatedly called upon both the Borrower and the Corporate Debtor to regularize the loan account and repay the outstanding dues; however, no repayment was forthcoming. Consequently, in accordance with the applicable directives and prudential norms issued by the Reserve Bank of India, the loan account was classified as a Non-Performing Asset (NPA) on 30.04.2018.
- 5.10 Ld. Counsel submit that pursuant to the classification of the account as NPA, the Applicant Bank issued a demand/legal notice dated 21.06.2018 to the Borrower as well as the Corporate Debtor herein, calling upon them to comply with the terms and conditions of the loan documents and to repay the outstanding dues. A copy of the demand/legal notice dated 21.06.2018 is attached as Annexure- "A-9".
- 5.11 Ld. Counsel submit that the Applicant Bank issued a Notice of Invocation of Guarantee and Demand Notice dated 11.07.2025, thereby invoking the guarantee furnished by the Corporate Debtor and demanding payment of the outstanding amount of Rs. 17,21,19,657.92/- as on 11.07.2025. A copy of the notice is attached as Annexure- "A-10".
- 5.12 Ld. Counsel submit that the said Notice of Invocation was returned undelivered on 24.07.2025 with the postal endorsement "No Such Person at the Address." Subsequently, the Applicant Bank effected substituted service by publishing the Notice of Invocation in two widely circulated newspapers, one in English and one in the vernacular language, on 17.12.2025 in Kolkata and Ranchi respectively. A copies of the Public Publication is attached as Annexure- "A-10".

5.13 Ld. Counsel submit that a sum of Rs. 17,54,26,237.99/- as on 17.10.2025 remains due, outstanding, and payable by the Corporate Debtor to the Financial Creditor and the date of default is stated to have occurred on 24.12.2025.

6. ANALYSIS AND FINDINGS

6.1 Here, admittedly Sunbeam Dealers Private Limited is the Principal Borrower to whom various credit facilities were sanctioned by Bank of India since the year 2013. The said credit facilities were first renewed/restructured on 30.09.2016 vide sanction letter, whereby the existing limits were renewed.

6.2 The present Corporate Debtor, Bahubali Realbuild Private Limited, executed a Deed of Guarantee dated 30.09.2016 in favour of the Financial Creditor. It is thus a Corporate Guarantor for the debt of Sunbeam Dealers Private Limited the Principal Borrower.

6.3 The Principal Borrower thereafter committed defaults in repayment of the outstanding dues under the credit facilities. Consequently, the loan account of the Principal Borrower was classified as Non-Performing Asset (NPA) on 30.04.2018.

6.4 Bank of India have already filed a petition under section 7 of the Code against the Principal Borrower (Sunbeam Dealers Private Limited) being CP (IB) No. 3/KB/2026 and the same was reserved for order on 23.04.2026.

6.5 It is trite, axiomatic, and settled law that the liability of a guarantor is co-extensive with that of the principal debtor, unless otherwise provided in the contract, in terms of Section 128 of the Indian Contract Act, 1872 which reads as under:

“Section 128: Surety’s liability. —*The liability of the surety is co-extensive with that of the principal debtor, unless it is otherwise provided by the contract.*”

- 6.6 The Corporate Guarantor, such as, the Respondent are responsible for the debt borrowed by the principal borrower and the right to proceed against the principal borrower as well as guarantor is in equal measure, in case, principal borrower commit default in repayment of the amount of debt as laid down by the Hon'ble Supreme Court of India in the case of **Laxmi Pat Surana Vs Union of India** reported in (2021) 8 SCC 481: MANU/SC/0221/2021 at Para 37 held as under:

*“37.Further, the expression “default” has been defined in Section 3(12) to mean non-payment of “debt” when whole or any part or instalment of the amount of debt has become due and payable and is not paid by the debtor or the corporate debtor, as the case may be. **In cases where the corporate person had offered guarantee in respect of loan transaction, the right of the financial creditor to initiate action against such entity being a corporate debtor (corporate guarantor), would get triggered the moment the principal borrower commits default due to non-payment of debt.**”*

(Emphasis Added)

- 6.7 Further, we would also rely upon the judgment passed by the Hon'ble NCLAT in the case of **Mohan Kumar Garg Vs Omkara Assets Reconstruction Pvt. Ltd.** Company Appeal (AT) (Insolvency) No.993 of 2023 reported in (2023) ibclaw.in 547 NCLAT held that:

“9. We are of the view that law is well settled that proceeding under Section 7 can be initiated against both the Principal Borrower and Corporate Guarantor and there is no inhibition in proceeding against the Corporate Guarantor although proceeding against Principal Borrower under Section 7 was admitted. We are

of the view that no error has been committed by the Adjudicating Authority in admitting Section 7 application against the Corporate Guarantor. There is no merit in the Appeal. Appeal is dismissed.”

(Emphasis Added)

It is therefore trite, axiomatic and settled law that simultaneous proceedings under Section 7 of the I&B Code, can be initiated and continued against both the Principal Borrower as well as the Corporate Guarantor.

- 6.8 Further, it is observed from “**Clause-1**” of the **Deed of Guarantee** dated **30.09.2016** at **page no. 49-50A of the petition** executed by Bahubali Realbuild Pvt. Ltd., where the Respondent had unequivocally undertaken to repay the outstanding amount to the bank within a period of two days from the date of issuance of the demand notice. The said clause clearly casts a binding and enforceable obligation upon the Respondent to honour the demand immediately upon invocation of the guarantee.
- 6.9 The Honourable Supreme Court in Civil Appeal: 6894 of 1997 in the case of **Syndicate Bank Vs Channaverrappa Beleri** - 2006 (11) SCC 506, had held that-

*“11. But in the case on hand, the guarantee deeds specifically state that the guarantors agree to pay and satisfy the bank on demand and interest will be payable by the guarantors only from the date of demand. In a case **where the guarantee is payable on demand**, as held in the case of Bradford (supra) and Hartland (supra), **the limitation begins to run when the demand is made and the guarantor commits breach by not complying with the demand.**”*

(Emphasis Added)

6.10 The Honourable NCLAT in the case of **Archana Deepak Vs Indian Bank** 2023 SCC online NCLAT 192 had held that-

“31.It is clear that although the Guarantor immediately become liable on any default committed by the Principal Borrower but for initiating any action against the Guarantor, demand is to be made. Without there being any demand, it cannot be accepted that period of limitation against the guarantor shall commence”.

6.11 It is well settled that, in the case of a guarantee payable on demand, the period of limitation commences from the date of invocation of the guarantee and not from the date of execution thereof. In the present case, Clause-1 of the Deed of Guarantee stipulates that the guarantors shall be liable to pay the amount in default committed by the principal borrower immediately upon demand being raised by the Financial Creditor. The record reflects that the Financial Creditor initially invoked the guarantee vide demand notice dated 11.07.2025; however, the said notice was returned undelivered. Thereafter, the Financial Creditor effected substituted service by way of publication of the notice of invocation in the newspaper on 17.12.2025, granting seven (7) days' time to the guarantors to repay the outstanding dues. Since the present petition came to be filed on 06.01.2026, the same is clearly within the prescribed period of limitation of three (3) years computed from the date of invocation of the guarantee.

7. In the light of the enumerations supra, we have no hesitation to **admit** this petition filed under Section 7 of the I&B Code, 2016. Accordingly, we order the initiation of Corporate Insolvency Resolution Process (CIRP) in respect of the Corporate Debtor by the following Orders:

- i. The Application filed by **Bank of India** (Financial Creditor) under Section 7 of the IBC, 2016, is hereby, **ADMITTED** for initiating

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the Corporate Insolvency Resolution Process in respect of
Bahubali Realbuild Private Limited.

- ii. The moratorium is declared for the purposes referred to in Section 14 of the Insolvency & Bankruptcy Code, 2016. Moratorium under Section 14 of the Insolvency & Bankruptcy Code, 2016, prohibits the following:
 - a. The institution of suits or continuation of pending suits or proceedings against the Corporate Debtor including execution of any judgment decree or order in any court of law, Tribunal, arbitration panel or other authority;
 - b. Transferring, encumbering, alienating or disposing of by the Corporate Debtor any of its asset or any legal right or beneficial interest therein;
 - c. Any action to foreclose, recover or enforce any security interest created by the Corporate Debtor in respect of its property including any action under the Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (54 of 2002);
 - d. The recovery of any property by an owner or lessor where such property is occupied by or in possession of the Corporate Debtor.
- iii. The moratorium shall have effect from the date of this order till the completion of the CIRP or until this Adjudicating Authority approves the resolution plan under sub-section (1) of section 31 of the IBC or passes an order for liquidation of CD under section 33 of the IBC, as the case may be.
- iv. The supply of essential goods or services to the corporate debtor as may be specified shall not be terminated or suspended or interrupted during the moratorium period.

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- v. The provisions of sub-section (1) of the Section 14 shall not apply to such transactions as may be notified by the Central Government in consultation with any financial sector regulator.
- vi. The Applicant has proposed the name of **Mr. Kanchan Dutta**, having Registration No. **IBBI/IPA-001/IP-P00202/2017-18/10391**(Email ID: kanchan@kgrs.in) as the Interim Resolution Professional (“**IRP**”). We have perused that there is a written communication and consent of IRP in Form- 2 with Declaration, annexed at pages 22-25 to the petition and page 73 of the written notes of argument, as per the requirement of Rule 9(l) of the Insolvency and Bankruptcy (Application to Adjudicating Authority) Rules, 2016. In addition, further necessary disclosures have been made by “**Kanchan Dutta**” as per the requirement of the IBBI Regulations. Accordingly, he satisfies the requirement of Section 7(3)(b) of the code. Hence, we appoint “**Kanchan Dutta**” as the Interim Resolution Professional (IRP) of the Corporate Debtor to carry out the functions as per the IBC subject to submission of a valid Authorisation of Assignment in terms of regulation 7A of the Insolvency and Bankruptcy Board of India (Insolvency Professional) Regulations, 2016. The fee payable to IRP or the RP, as the case may be, shall be compliant with such Regulations, Circulars and Directions as may be issued by the Insolvency & Bankruptcy Board of India (IBBI). The IRP shall carry out his functions as contemplated by sections 15, 17, 18, 19, 20 and 21 of the I&B Code.
- vii. In pursuance of Section 13 (2) of the Code, we direct the IRP or the RP, as the case shall cause a public announcement immediately with regard to the admission of this application under Section 7 of the Code and call for the submission of claims under Section 15 of the Code. The public announcement referred to in Clause (b) of sub-section (1) of Section 15 of the

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IBC, 2016, shall be made immediately. The expression immediately means within three days as clarified by Explanation to Regulation 6 (1) of the IBBI (Insolvency Resolution Process for Corporate Persons) Regulations, 2016.

- viii. During the CIRP period, the management of affairs of the Corporate Debtor shall vest in the IRP or the RP, as the case may be, in terms of Section 17 of the IBC, 2016. The officers and managers of the Corporate Debtor shall provide all documents in their possession and furnish every information in their knowledge to the IRP within one week from the date of receipt of this Order, in default of which coercive steps will follow. There shall be no future opportunities in this regard.
- ix. The Interim Resolution Professional is also free to take police assistance to take full charge of the Corporate Debtor, its assets and its documents without any delay, and this Court hereby directs the concerned Police Authorities and/or the Officer-in-Charge of Local Police Station(s) to render all assistance as may be required by the Interim Resolution Professional in this regard.
- x. The IRP or the RP, as the case may be, shall submit to this Adjudicating Authority periodical report with regard to the progress of the CIR Process in respect of the Corporate Debtor.
- xi. The Financial Creditors shall be liable to pay to IRP a sum of **Rs. 3,00,000** /-(Rupees Three Lakhs only) as payment to meet the cost of CIRP arising out of issuing public notice and inviting claims etc., as per Regulation 33(3) of the IBBI (Insolvency Resolution Process for Corporate Persons) Regulations, 2016, which amount shall be adjusted at the time of final payment. The expenses relating to the CIRP are subject to the approval of the Committee of Creditors (CoC).
- xii. In terms of sections 7(5) and 7(7) of the Code, the **Registry of this Adjudicating Authority** is hereby directed to communicate

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this Order to the Financial Creditor, the Corporate Debtor and the Interim Resolution Professional by Speed Post and through email immediately, and in any case, not later than two days from the date of this Order.

- xiii. Additionally, the **Registry of this Adjudicating Authority** shall serve a copy of this Order upon the Insolvency and Bankruptcy Board of India (IBBI) for their record and also upon the Registrar of Companies (RoC), Kolkata to whom the company is registered with, by all available means for updating the Master Data of the Corporate Debtor.
 - xiv. The Resolution Professional shall conduct CIRP in a time-bound manner as per Regulation 40A of IBBI (Insolvency Resolution Process for Corporate Persons) Regulation, 2016.
 - xv. The IRP/RP shall be liable to submit the periodical report including the minutes of the CoC of the Corporate Debtor, with regard to the progress of the CIR Process in respect of the Corporate Debtor to this Adjudicating Authority from time to time.
 - xvi. The order of moratorium shall cease to have effect as per Section 14(4) of the I&B Code.
8. Certified copies of this order, if applied for with the Registry of this Adjudicating Authority, be supplied to the parties upon compliance with all requisite formalities.
9. Post the Company Petition on **29.06.2026** for filing the Periodical Progress Report by the IRP/RP as appointed herein.

Cmde. Siddharth Mishra
Member (Technical)

Bidisha Banerjee
Member (Judicial)

Order signed on 18th of May, 2026.

S.T (LRA)