NATIONAL COMPANY LAW TRIBUNAL
GUWAHATI BENCH
GUWAHATI

ORDER SHEET OF THE HEARING ON 24th JULY 2026

IA(IBC)/55/GB/2026
CP(IB)/13/GB/2023

Present: 1. Hon'ble Member (Judicial), Shri Rammurti Kushawaha
2. Hon'ble Member (Technical), Shri Yogendra Kumar Singh

In the Matter of	Indian Bank (Erstwhile Allahabad Bank) Vs Rita Mandal (PG) to ***Guwahati Construction Pvt. Ltd. (CD)***
Under Section	U/s 95 of IBC, 2016

Appearances (via video conferencing/physically)

IA(IBC)/55/GB/2026

For Petitioner (s) : Mr. Mukesh Sharma, Adv.
: Mr. Karan Borad, Adv.

For Respondent (s) : Ms. Sudha Sarma, RP in person

ORDER

Order pronounced in open court *vide* separate sheets.

Sd/- **Yogendra Kumar Singh** **Member (Technical)**	**Sd/-** **Rammurti Kushawaha** **Member (Judicial)**

Zeba (PS)

NATIONAL COMPANY LAW TRIBUNAL
GUWAHATI BENCH
GUWAHATI

IA (IBC)/55/GB/2026
In
CP (IB)/13/GB/2023

An Application under Section 98 of the Insolvency and Bankruptcy Code read with Section 60(5) of the Code, 2016 and Rule 11 of the NCLT Rules, 2016;

In the Matter of IA (IBC)/55/GB/2026:

Indian Bank(erstwhile Allahabad Bank), a banking company duly constituted under the Banking Companies (Acquisition & Transfer of Undertaking) Act, 1970, having its head office at PB No. 5555, 254-260, Avvai Shanmugam Salai, Royalpettah, Chennai, 600014 and branch office amongst others at SRCB Road, Kailash Bhawan, Fancy Bazar, Guwahati- 781001, Kamrup(M), Assam

...Applicant/Financial Creditor

-Versus-

Sudha Sarma, Liquidator, Nayak Infrastructure Private Limited, having its office at Sudha & Associates, 185, MRD Road, Bamunimaidan, Near SBI, Kamrup (M), Guwahati-781021, Assam;

...Respondent/ Resolution Professional

-And-

In the Matter of CP (IB)/13/GB/2023:

Indian Bank (Erstwhile Allahabad Bank)

... Financial Creditor

-Versus-

Rita Mandal

...Personal Guarantor

Coram:

Shri Rammurti Kushawaha	:	Member (Judicial)
Shri Yogendra Kumar Singh	:	Member (Technical)

Appearances (through video conferencing):

For Applicant	:	Mr. M. Sharma, Mr. K. Board (Advs.)
For Respondent	:	Ms. S. Sarma (RP)

Order pronounced on: 24.07.2026

<u>As Per Bench</u>

1. This present Interlocutory Application is filed by Indian Bank ('**Applicant**'), under Section 60(5) of the Insolvency and Bankruptcy Code, 2016 ('**the Code**') read with Rule 11 of the National Company Law Tribunal, Rules 2016 ('**NCLT Rules**'), seeking replacement of Resolution Professional, Ms. Sudha Sarma ('**Respondent**') under Section 98 of the Code. The Applicant seeking the following substantive reliefs:
   1.1. Allow the present application for replacement of the Resolution Professional, Ms. Sudha Sarma, under Section 98 of the Code.
   1.2. Declare that the continued appointment of Ms. Sudha Sarma as Resolution Professional in the captioned matter is vitiated by conflict of interest, adversarial relationship with the Applicant Bank, and reasonable apprehension of bias, and that her continuance is not in the interest of a fair and impartial resolution process.
   1.3. Direct that Ms. Sudha Sarma be removed as Resolution Professional in CP (IB)/13/GB/2023, and that a fresh Resolution Professional, having no pending litigation or adversarial proceedings with the Applicant Bank, be appointed in her place to conduct the Personal Insolvency Resolution Process.
   1.4. Pass such further or other orders as this Hon'ble Tribunal may deem fit and proper in the interest of justice and in accordance with the provisions of the Code.

2. Submissions on behalf of the Applicant in its Interlocutory Application dated 06.04.2026:

2.1. The Applicant is a banking company being represented by its authorised officer, Mr. Pramod Kumar Giri. A copy of the authority letter dated 31.03.2026 is annexed to the Application as "*Document P*".

2.2. The Applicant invoked its statutory rights under Section 95 of the Code and instituted an Application before this Hon'ble Tribunal against Rita Mandal ('**Personal Guarantor**'), duly registered and numbered as CP (IB)/13/GB/2023, wherein it sought initiation of the Personal Insolvency Resolution Process ('**PIRP**') against the Personal Guarantor. The aforesaid Application was admitted by this Hon'ble Tribunal *vide* an order dated 18.03.2026, thereby commencing PIRP in respect of the Personal Guarantor. Consequently, the Hon'ble Tribunal also appointed Ms. Sudha Sarma as the Resolution Professional ('**RP**') to oversee and conduct the PIRP in accordance with the provisions of the Code. A copy of the order dated 18.03.2026 is annexed to the Application as "*Annexure No. A-1*".

2.3. The Applicant submitted that it does not wish to continue with Ms. Sudha Sarma as the RP and seeks her replacement on the following grounds:

2.3.1. The Applicant submits it has a serious conflict of interest and adversarial relationship arising with the Respondent in the matter of **State Bank of India v. Nayak Infrastructure Private Limited** (CP(IB)/10/GB/2021) in which Ms. Sudha Sarma was acting as the Liquidator of the Corporate Debtor. The Applicant is a member of the Stakeholder Consultation Committee ("**SCC**") in that matter the Applicant Bank had already filed an Interlocutory Application ("**IA**") against Ms. Sudha Sarma in her capacity as Liquidator, being IA (IBC)/53/GB/2025 seeking direction that the legitimate claim of the Applicant Bank be allowed from the sale proceeds of the Corporate Debtor, Nayak Infrastructure Private Limited. The aforesaid IA is presently pending for adjudication before this Hon'ble Tribunal.

2.3.2. It is submitted that the Respondent has filed two more interlocutory applications against the Applicant Bank, namely, IA (IBC)/67/GB/2022 and IA (IBC)/116/GB/2025 in the aforesaid matter. The former IA pertains to certain disputed bank guarantees while the latter IA seeks deduction of legitimate claim amount. The Applicant submitted the Respondent has a tendency to adopt an adversarial rather than a conciliatory and facilitative role as seen in the pending proceedings of IA (IBC)/53/GB/2025, where the

Applicant was compelled to seek directions against her withholding the legitimate claim of the Bank from sale proceeds. This shows she has not adopted a cooperative or creditor-friendly approach despite being statutorily bound to act in the interest of all stakeholders. Furthermore, the Applicant submitted that the Respondent sought deduction of its legitimate claim amount in IA (IBC)/116/GB/2025, deepening the mistrust and demonstrating that her outlook is aligned against its interests. Thus, Sudha Sarma stands in an adversarial position vis-à-vis the Applicant Bank in ongoing litigation and her continued role as Resolution Professional in the instant case would create a clear conflict of interest and appear to be biased.

2.3.3. The Applicant submitted it has lost confidence that the Respondent can still act in an impartial and fair manner in light of the aforesaid pending litigations. The role of an RP is essentially facilitative, quasi-judicial, and neutral, requiring even-handed treatment of all stakeholders. The Applicant contended that the perception and reality of "fairness" stands critically compromised considering the same resolution professional is already engaged in dispute with it in other matters.

2.3.4. The Applicant apprehends that the Respondent may be influenced by her earlier stance before this Hon'ble Tribunal or may adopt an unduly rigid or hostile approach towards the Applicant Bank, either in the verification of claims, in the conduct of Committee of Creditors' ("**CoC**") meetings, or in the framing and approval of the repayment plan. Such apprehension has been founded on the live pending disputes the Applicant has with her in the **Nayak Infrastructure Pvt. Ltd.** case.

2.3.5. The Applicant submitted its internal policies, regulatory guidelines and risk management framework provide that any professional who is in an adversarial position vis-à-vis the Bank in legal proceedings cannot be entrusted with any fiduciary or supervisory role in its matters. The filing of IA in the Nayak Infrastructure case clearly brings the Respondent within the category of a person having a conflict of interest, making her continuance as the RP inconsistent with the bank's internal policies, as well as against the principles of fair dealing and neutrality required from an RP.

2.4. In light of the aforementioned facts, the Applicant submitted that there is clear conflict of interest, adversarial relationship and reasonable apprehension of bias which are sufficient reasons to seek replacement of the Respondent as RP under Section 98 of the Code. The Applicant seeks the appointment of another RP who has no prior dispute or pending litigation with the Applicant Bank, ensuring a fair, transparent, and smooth resolution process.

3. Submissions of the Respondent against the Interlocutory Application in its Affidavit-in-Reply dated 05.05.2026:

3.1. The Respondent was appointed by this Hon'ble Tribunal as the RP for conducting the insolvency resolution process of Rita Mandal *vide* an order dated 18.12.2023. The Applicant has filed the instant Application seeking removal of the Respondent as RP

3.2. It is submitted that the present IA is grossly defective as the signatory to the Application, Pramod Kumar Giri, has not been authorised by the Board of Directors or Financial Creditor or any competent authority of the Bank to file the instant Application. The Respondent disputes the authenticity of the Authorization Letter dated 31.03.2026 and submits the instant Application is not maintainable and liable to be dismissed at the outset.

3.3. This Application is liable to be dismissed on the ground of deceitful suppression and for misleading this Hon'ble Tribunal. It is submitted that the Applicant had suppressed the fact that a similar interlocutory application, IA(IBC)/134/GB/2023, was earlier filed by them for removing the Respondent from the instant matter. However, when questioned by this Hon'ble Tribunal on the merits and circumstances of the Application in its first hearing on 08.01.2024, the Applicant strategically withdrew it on 09.01.2024. The Respondent submitted this instant Application is a mere reincarnation of the withdrawn application, raising no real facts or circumstances that warrant a fresh consideration. It is a well settled principle that a petitioner who withdraws a petition without leave or permission to file a fresh one, is strictly precluded from filing a subsequent petition on the same cause of action. A copy of order dated 08.01.2024 and 09.01.2024 in IA (IBC)/134/GB/2023 is annexed to the Reply as "*Annexure-1 (Colly)*".

3.4. The present Application failed to cite a single instance where the Respondent had demonstrated biasness, partiality, or misconduct in the present insolvency resolution process. Rather, the Application cites actions taken by the Respondent in exercise or her fiduciary responsibilities, in proceedings unconnected to the instant matter.

3.5. The Application seeks the replacement of the Respondent RP on grounds of adversarial relationship and conflict of interest arising out of IA (IBC)/67/GB/2022, IA(IBC)/116/2025, and IA (IBC)/53/GB/2025 pending before this Hon'ble Tribunal in an unconnected matter regarding liquidation of Nayak Infrastructure Pvt. Ltd., who is not a Corporate Debtor or remotely connected to the instant matter. Even the Respondent's role as the Liquidator of Nayak Infrastructure Pvt. Ltd. is entirely distinct from her role as RP in the present matter. There is no pecuniary, professional, or personal conflict that impairs the Respondent from acting impartially in the present matter. A creditor's mere dissatisfaction or unsubstantiated allegations in unconnected matters do not meet the strict thresholds to admit an application for removal of RP.

3.6. It is submitted that the actions committed by the Respondent in discharge of her fiduciary duties as a liquidator in an entirely separate proceeding cannot be twisted to impute personal bias or create fictionalized adversarial relationships to disqualify her role as an RP, as it would create a wrong precedent discouraging RPs from exercising their fiduciary responsibilities in a fair manner.

3.7. It is submitted by the Respondent that internal policies of the Bank that necessitate her removal are not the law and cannot override the statutory scheme of the Code or orders of this Hon'ble Tribunal. Considering the Respondent was appointed as an RP by this Hon'ble Tribunal in accordance with the Code, the Applicant cannot seek to nullify a judicial order by citing its internal policies which have no statutory force.

3.8. It is submitted that the instant Application is an attempt to tarnish the Respondent's professional reputation. As an officer of this Hon'ble Tribunal, she is bound by the Code of Conduct for Insolvency Professionals which mandates objectivity, impartiality, and integrity.

3.9. It is submitted that the grounds for replacement of RP cited by the Applicant are not within the ambit of Section 98 of the Code. The instant Application attempts to create a novel and dangerous precedent where a financial creditor can seek the removal of an Insolvency Professional ('**IP**') who dares to challenge its claims in exercise of her fiduciary responsibilities, thereby undermining the independence and authority of the IPs.

3.10. It is submitted that Section 98 of the Code is not to be used by creditors to engage in forum shopping when the Hon'ble Tribunal has already appointed an RP. As per the statute, an RP can only be replaced when there are specific, legally tenable grounds such as proven misconduct, incapacity, or a direct pecuniary conflict in the instant matter. Mere dissatisfaction or perceived adversarial stance arising from performance of statutory duties in a separate and distinct legal proceedings do not meet this high threshold.

3.11. It is submitted that the Applicant is attempting to evade payment of legitimate dues to the Respondent by seeking her removal as RP in the instant matter. While initiating the present insolvency resolution process *vide* order dated 18.03.2026 in CP (IB)/13/GB/2023, this Hon'ble Tribunal had directed the Applicant to deposit a fee of Rs. 1,75,000/- to the Respondent. However, despite specific directions and repeated reminders, the Applicant defied this Hon'ble Tribunal's order and never paid the fee. The Applicant never paid for the costs incurred by the Respondent in compliance with the order such as those for publication of public notices in the newspaper. Furthermore, the Respondent submitted her Report under Section 99 of the Code in compliance of the order dated 18.12.2023 in the main CP which was subsequently taken on record by this Hon'ble Tribunal *vide* order dated 07.06.2024 in IA (IBC)/38/GB/2024. But the RP's fee and expenses in the matter was neither determined by this Hon'ble Tribunal nor paid by the Applicant.

It would also not be out of place to mention that this Hon'ble Tribunal simultaneously passed an order dated 18.12.2023 in CP(IB)/15/GB/2023 (*Indian Bank v. Isha Biswas*) which was connected to the same corporate debtor. Again, the RP had submitted her Section 99 Report pursuant to the tribunal's directions, which was taken on record in an order dated 07.06.2024 in IA(IBC)/36/GB/2024. Even then, the RP's fee and expenses were neither determined nor paid by this Applicant. Copies of the order dated 18.03.2026 in CP (IB)/13/GB/2023, cutouts of public notices published in two local newspapers dated 25.03.2026, and statement calculating fee and expenses payable to RP are annexed to the Reply as "*Annexure-2*","*Annexure-3 (Colly)*", and "*Annexure-6*" respectively. Copies of the order dated 18.12.2023 in main CP and order dated 07.06.2024 in IA (IBC)/38/GB/2024 are annexed to the Reply as "*Annexure-4 (Colly)*". Copies of the order dated 18.12.2023 in CP(IB)/15/GB/2023 and order dated 07.06.2024 in IA(IBC)/36/GB/2024 are annexed to the Reply as "*Annexure-5 (Colly)*".

3.12. The Respondent prays for the Hon'ble Tribunal to pass an order dismissing the instant Application with stern directions to Applicant to pay the RP fee and reimburse the expenses incurred by her during the insolvency resolution process.

4. Pursuant to the order dated 15.07.2026, the Respondent filed a Convenience Note dated 18.07.2026 reiterating most of her submissions from the Reply. Relevant submissions are as follows:

4.1. It is submitted that the present Application is not maintainable as the Applicant had suppressed material information on the withdrawal of IA (IBC)/134/GB/2023 seeking identical relief without being granted any liberty to file a fresh application.

4.2. The Applicant has failed to cite a single instance of partiality or misconduct in the instant case. Rather, they are relying on the actions of the Respondent as liquidator in a completely unrelated matter, making their claims wholly misplaced and legally untenable.

4.3. The Respondent carried out the alleged actions as part of her fiduciary obligations as a liquidator in an entirely different matter. Such actions cannot be twisted to impute adversarial bias to disqualify her from acting as RP in a separate matter.

4.4. The present application is an abuse of the process of law to exert undue pressure and restraint upon the Respondent's exercise of her fiduciary duties.

4.5. It is submitted that the Application is a malicious attempt to tarnish the professional integrity and reputation of an officer of this court for diligently performing her fiduciary duties.

5. Heard the submissions made by the Learned Counsel for the parties and perused the records.

6. The present Application has been filed under Section 98 of the Code read with Section 60(5) of the Code and Rule 11 of the NCLT Rules, seeking removal and replacement of the Respondent who was appointed as an RP in CP(IB)/13/GB/2023 (*Indian Bank (erstwhile Allahabad Bank) v. Rita Mandal*).

7. **On the Maintainability of the Application:**

7.1. The Respondent contested the authenticity of the authority letter dated 31.03.2026 in favour of Pramod Kumar Giri as an authorized officer of the Applicant Bank. However, a bare denial of authenticity, unaccompanied by any material to demonstrate forgery, fabrication, or lack of requisite authority does not suffice to displace a document filed on record by a banking company. Solely, this objection would not warrant dismissal at the threshold.

7.2. However, the record shows that the Applicant had earlier filed an interlocutory application, namely, IA (IBC)/134/GB/2023 in CP(IB)/13/GB/2023 seeking the very same relief of removing the Respondent as an RP. Relevant extracts of the prayers in the aforesaid IA is quoted below:

"*The applicant prays for* (this Hon'ble Tribunal)…*to allow modification/ alteration/ amendment of the order dated 18.12.2023 passed by this Hon'ble Tribunal in CP (IB) No, 13/GB/2023 and thereby replace the appointed RP Ms. Sudha Sarma to Mr. Amit Pareek*."

However, as per an order dated 09.01.2026, the Applicant sought oral permission to withdraw this IA and the application was disposed of as withdrawn with no liberty to file fresh suit.

As per Order XXIII Rule 1 of the Civil Procedure Code, 1908 ('**CPC**'), if a plaintiff withdraws from a suit without sufficient grounds to permit institution of a fresh suit, they may be precluded from filing a fresh suit on the same subject matter. In the present Application, the Applicant seeks nothing that was not already sought and abandoned without leave to institute a fresh suit in IA (IBC)/134/GB/2023 in the same case.

Furthermore, the Applicant did not disclose the existence, hearing, or withdrawal of IA (IBC)/134/GB/2023 anywhere in the present Application. A litigant approaching a quasi-judicial forum is bound by a duty of full and candid disclosure. Suppression of a materially relevant prior proceeding on the identical cause of action, particularly one that was tested on merits and withdrawn rather than pressed, is itself sufficient ground to non-suit an applicant, independent of the substantive merits of the claim.

For these reasons, the Application is liable to be dismissed as not maintainable.

8. **Findings and Analysis:**

8.1. Section 98 does not contemplate removal of an RP on a generalized loss of confidence or on dissatisfaction with the RP's conduct in an entirely unconnected proceeding. The pending IAs mentioned in the Application arise out of the liquidation of Nayak Infrastructure Pvt. Ltd., a distinct corporate debtor, in which the Respondent functions in her capacity as Liquidator, a role and proceeding that is wholly distinct from her appointment as RP for the Personal Guarantor, Rita Mandal, in the present matter.

8.2. Any IP discharging fiduciary duties in one matter cannot be alleged to carry a disqualifying bias into an unrelated assignment just because she took an adverse position to the financial creditor's claim. To hold otherwise would open the floodgates for any dissatisfied creditor to engineer the removal of an IP in a matter merely by pointing to legitimate adversarial litigation in another, which would undermine the independence the Code seeks to secure for IPs. The present case fails to meet the threshold for removal of RP under Section 98 of the Code which requires specific and demonstrable grounds such as proven misconduct, incapacity, or a direct conflict of interest in the very same proceeding. The present Application does not point to a single act of partiality, misconduct, or irregularity by the Respondent in the conduct of the PIRP concerning Rita Mandal itself. Rather, the grounds are borrowed from a separate matter.

8.3. The Applicant's reliance on its internal risk management policy is misconceived. The internal policy of a banking company has no statutory force and cannot override the Tribunal's order of appointment made in exercise of its powers under the Code.

8.4. It is on record that pursuant to order dated 18.03.2026, the Applicant was directed to deposit a fee of Rs. 1,75,000/- to the Respondent. Further, in an order dated 30.06.2026 it was submitted that the Applicant had already paid the aforesaid amount to the Respondent. Therefore, the Applicant has paid the due amount as directed by this Tribunal.

Hence, the grounds urged do not meet the threshold under Section 98 of the Code for replacement of RP.

ORDER

1. In view of the foregoing, IA (IBC)/55/GB/2026 in CP(IB)/13/GB/2023 is **dismissed** on the following grounds:
   a) For not being maintainable on account of suppression of fact regarding the withdrawal of IA (IBC)/134/GB/2023 seeking identical relief and having no liberty to file afresh.
   b) For failure to make out sufficient grounds for removal of RP falling within the scope of Section 98 of the Code.
2. Ms. Sudha Sarma shall continue as Resolution Professional in CP(IB)/13/GB/2023.
3. Therefore, IA (IBC)/55/GB/2026 stands **disposed of** accordingly.
4. The Registry is directed to communicate a copy of this order to the parties and the Resolution Professional forthwith.
5. File be consigned to records.

Sd/-
Yogendra Kumar Singh
Member (Technical)

Sd/-
Rammurti Kushawaha
Member (Judicial)

Signed this on 24th day of July, 2026

Madona Barman (L.R.A.)