



IN THE NATIONAL COMPANY LAW TRIBUNAL
DIVISION BENCH, (COURT NO.-II)
KOLKATA

I.A (IB) No. 155/KB/2025

In

C.P (IB) No. 204/KB/2019

*An application under Section 60(5) of the Insolvency and
Bankruptcy Code, 2016 read with rule 11 of the NCLT Rules,
2016.*

IN THE MATTER OF:

KOTAK MAHINDRA BANK LIMITED

.....Financial Creditor

-Versus-

MULTIPLE HOTELS PRIVATE LIMITED

.....Corporate Debtor

AND

IN THE MATTER OF:

KCGP DEVELOPERS PRIVATE LIMITED

.....Applicant

-Versus-

1. JITENDRA LOHIA, Resolution Professional of Multiple Hotels
Private Limited.

2. KOTAK MAHINDRA BANK LIMITED

.....Respondents

Date of Pronouncement: 13.01.2026



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Coram:

Shri. Labh Singh, Member (Judicial)

Ms. Rekha Kantilal Shah, Member (Technical)

Appearances: (via Physical/Hybrid Mode):

Mr. Rohit Kr. Keshri, Adv.] For the Applicant

Mr. Ankit Chaurasia, Adv.]

Ms. Urmila Chakraborty, Adv]

Ms. Shreya Jain, Adv.] For the RP

Mr. Jitendra Lohia, RP]

O R D E R

Per: Ms. Rekha Kantilal Shah, Member (Technical)

- 1.The Court convened through hybrid/physical mode.
- 2.This Interlocutory Application **IA(IBC) No.155/KB/2025** has been filed by KCGP Developers Private Limited seeking following reliefs, inter alia:

I. Direction upon the Respondents to share the full Particulars of the Assets, Property and Stocks of the Corporate Debtor in strict Compliance of Regulation 36 (2) (a) of the Insolvency and Bankruptcy Board of



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India (Insolvency Resolution Process for Corporate Persons) Regulations, 2016;

II. *Direction that the Respondents to allow the Applicant to submit the Resolution Plan after giving full Particulars of the Assets, Property and Stocks of the Corporate Debtor in strict Compliance of Regulation 36 (2) (a) of the Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) Regulations, 2016;*

III. *Direction that the Respondents to consider the Applicant as the only Prospective Resolution Applicant as per the email dated 23.09.2024;*

Alternatively

Direction upon the Respondents to Re-Start the Process and Fresh Publication of Form G, With Full Particulars in strict Compliance of Regulation 36 (2) (a) of the Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) Regulations, 2016.

IV. *Such further order or orders be passed and/or direction or directions be given as to this Hon'ble Tribunal may deem fit and proper in the interest of justice.*

Interim Order:



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- I. *Direction upon the Respondents to allow the Applicant to submit its Resolution Plan;*
- II. *Direction upon the Respondents that until the full Particulars of the Assets, Property and Stocks of the Corporate Debtor in strict Compliance of Regulation 36 (2) (a) of the Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) Regulations, 2016 be given the CIRP process be stayed;*
- III. *Such further order or orders be passed and/or direction or directions be given as to this Hon'ble Tribunal may deem fit and proper in the interest of justice.*

3. Background of the case:

- I. A petition under Section 7 of the Insolvency and Bankruptcy Code, 2016 (“IBC”) read with Rule 4 of the Insolvency and Bankruptcy (Application to Adjudicating Authority) Rules, 2016 was filed by the Kotak Mahindra Bank having C.P. (I.B). No. 204/KB/2019 for Initiation Corporate Insolvency Resolution Process (“CIRP”) against Multiple Hotels Private Limited, Corporate Debtor, wherein the Hon'ble National Company Law Tribunal (“NCLT”) vide



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Order dated 29.12.2022¹ passed an Order for admitting the Company into CIRP. Thereafter, the NCLT had appointed Mr. Narshima Rao Venkata as Interim Resolution Professional (“IRP”).

II. The IRP had made public announcement under Regulation 6 of the Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) Regulations, 2016 on 31.12.2022 in Business Standard and Aajkaal. The 1st COC Meeting was also conducted on the 24.01.2023. Thereafter, the IRP had not taken any steps to resolve the CIRP of the Corporate Debtor. Hence, an application for the replacement of IRP was filed by the COC on 10.02.2023 and vide order dated 21.11.2023² Mr. Jitendra Lohia being the Respondent No.1 herein was appointed as the Resolution Professional. (“RP”)

III. The RP had issued the 1st Expression of Interest (“EOI”) on 26.04.2024 for inviting the EOI from the Prospective Resolution Applicants (“PRA”) for the Insolvency Resolution of the Corporate Debtor. After the publication of 1st Form G, the (EOI) was issued on 26.04.2024, the same has not been implemented and

¹ Annexure- A1

² Annexure- A of RP’s Reply Affidavit



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/ or acted upon and subsequently the RP has Published Form G For Expression of Interest on 10.09.2024³.

IV. After the publication of the 2nd Form G for EOI on 10.09.2024 the Applicant vide letter dated 16.09.2024 has filed its Expression of Interest for submission of Resolution Plan and paid the EMD amount of Rs. 1,00,000/- on 16.09.2024⁴.

V. The RP has published the Final List of PRA on 23.09.2024⁵, wherein the RP declared the Applicant as the only PRA.

4. Submission on behalf of the Applicant

I. Ld. Counsel submits that the Applicant was declared the only PRA. The RP had shared the Information Memorandum ("IM") and Evaluation Matrix of RFRP documents through email on 07.10.2024.

II. Ld. Counsel submits that upon receipt of the RFRP, the Applicant visited the project site on 12.10.2024 and 01.12.2024 and found stocks and other assets of the Corporate Debtor. During the site visit, the Applicant learnt from nearby hotel owners, who also own the land providing access to the Corporate Debtor, that the road access was governed by a rent agreement which stood cancelled due to non-payment of

³ Annexure- A2

⁴ Annexure- A3

⁵ Annexure- A4



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rent during the CIRP period. It is contended that the road access described in the Information Memorandum does not match the actual site conditions. Accordingly, the Applicant sought clarification from Respondent No.1 prior to submission of the Resolution Plan; however, the RP failed to disclose the true and correct position of the assets and insisted on an “as is where is” basis, which is alleged to be in violation of Regulation 36 of the CIRP Regulations. The relevant email⁶ correspondence has been annexed to the Application.

III. Ld. Counsel further submits that the RP has written an email on 04.12.2024⁷ and included the name of one more person namely Ms. Aditi Sinha as a PRA illegally behind the back and without any notice after 71 days of declaring the Applicant as the only PRA in the Final List and in connivance with Ms. Aditi Sinha, the reason best known to the RP.

IV. Ld. Counsel lastly submits that the Hon’ble Bench shall make necessary direction to the RP to allow the Applicant to submit the Resolution Plan and consider the Applicant as the only PRA of the Corporate Debtor.

⁶ Annexure- A6

⁷ Annexure- A7



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5. Submission on behalf of the Resolution Professional

- I. Ld. Counsel submits that Form G⁸ was published twice on 25.01.2024 and 26.04.2024. A corrigendum dated 10.09.2024 further extended deadlines for EOI and plan submission. Further, Applicant submitted its EOI on 16.09.2024, paid the fees, and was included as PRA. Confidentiality undertaking was belatedly submitted on 07.10.2024, after repeated reminders. Thereafter, the IM, RFRP, and Evaluation Matrix were duly shared.
- II. Ld. Counsel submits that Applicant had every opportunity to participate in CIRP but defaulted repeatedly. A party who has failed to submit a plan despite repeated extensions cannot seek to undo the entire process. Reliance is placed upon *Arcelor Mittal India Pvt. Ltd. v. Satish Kumar Gupta*⁹.
- III. Ld. Counsel submits that despite being the sole PRA for considerable time, the Applicant failed to submit plan within deadlines, raised queries at the eleventh hour, and sought extensions without substance. It is pertinent to note that it had been clearly stated in the EOI process documents and RFRP documents shared with the Applicant that the due diligence was

⁸ Annexure- B of RP's Reply

⁹ (2019) 2 SCC 1



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required to be done by the prospective resolution applicants and submit their resolution plan on “as is where is” “whatever there is basis” and based on their respective understandings. Reliance is placed upon **RBL Bank v. MBL Infrastructure Ltd., NCLAT, 2018.**

- IV. Ld. Counsel submits that the allegation regarding non-disclosure of access rights in the Information Memorandum is misconceived, as the IM was prepared strictly in accordance with Regulation 36, and matters relating to easement rights and title were subject to independent due diligence by the PRA. It is further submitted that the relevant document concerning the passage was subsequently shared with both PRAs. Notably, the other Resolution Applicant was able to formulate and submit its Resolution Plan on the basis of the same information, which negates the allegation of suppression. Ultimately, the Resolution Plan has been approved by the CoC in exercise of its commercial wisdom, in furtherance of the primary objective of the IBC, namely, resolution of the Corporate Debtor.
- V. Ld. Counsel submits that the Applicant, in its rejoinder, has misrepresented the order dated



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26.11.2024¹⁰ by falsely alleging that this Tribunal had declined to permit Ms. Aditi Sinha to submit a Resolution Plan. It is clarified that pursuant to the said order, both prospective resolution applicants were permitted to submit their plans by 09.12.2024, and accordingly, a revised list of PRAs was circulated vide e-mail dated 04.12.2024 to M/s KCGP Developers Private Limited and Ms. Aditi Sinha. No objection was raised by the Applicant at the relevant time. The present application has thus been filed as an afterthought to derail the CIRP process, while suppressing these material facts.

VI. Ld. Counsel submits that despite the grant of multiple extensions, the Applicant failed to submit its resolution plan. Accordingly, the resolution plan submitted by Ms. Aditi Sinha, within the prescribed timeline, was considered by the CoC. In the 14th CoC meeting dated 13.01.2025, the Resolution Plan submitted by Ms. Aditi Sinha was approved unanimously (100% votes). LOI was issued on 21.01.2025, and the Resolution Plan Application has already been filed before this Tribunal on 24.01.2025 as I.A. (IBC)(Plan)/3/2025.

¹⁰ Annexure- B of RP's reply affidavit



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VII. Ld. Counsel further submits that vide order dated 26.06.2025 this Hon'ble Tribunal issued a clarification calling upon the RP to place on record additional document. By 05.08.2025, the RP filed the additional documents by way of a supplementary affidavit containing Invitation of Expression of Interest¹¹, Request for Resolution Plan¹² and Information Memorandum¹³.

VIII. Ld. Counsel lastly submits that RP has fully complied with Regulation 36 (IM), 36A (EOI), and 36B (submission of plans) and the present Application is a clear attempt to reopen settled decisions of CoC and disrupt CIRP, contrary to IBC's objective of timely resolution.

6. Findings and Analysis

I. After having considered the contentions of the parties and going through the records, certain important facts deserve to be taken note of. The present Application has been filed by the Applicant, i.e., KCGP Developers Private Limited, which is a Prospective Resolution Applicant (PRA) of the Corporate Debtor, seeking complete disclosure of full particulars of the assets, property, and stocks of

¹¹ Annexure-B of RP's Supplementary Affidavit

¹² Annexure-C of RP's Supplementary Affidavit

¹³ Annexure-D of RP's Supplementary Affidavit



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the Corporate Debtor under Regulation 36(2)(a) of CIRP Regulations, 2016; allow the Applicant to submit its resolution plan and consider the Applicant as the sole prospective resolution applicant (PRA); or, alternatively, restart CIRP by republishing Form G.

II. As contended by the Applicant, it is stated that the Applicant, vide letter dated 16.09.2024¹⁴, submitted its Expression of Interest for submission of a Resolution Plan and deposited the Earnest Money Deposit of Rs. 1,00,000/- on the same date. Thereafter, on 23.09.2024, the Applicant was declared as the sole PRA, and on 07.10.2024, the RP shared the Information Memorandum along with the Evaluation Matrix and RFRP documents. It is further stated that the Applicant visited the site of the Corporate Debtor on 12.10.2024 and 01.12.2024 to assess the assets, whereupon it allegedly came to light that the road access to the project did not correspond with the particulars stated in the Information Memorandum. The Applicant has alleged that the RP, in violation of Regulation 36 of CIRP Regulations, 2016, failed to disclose the true and correct position of the assets of the Corporate Debtor, which was essential for

¹⁴ Annexure- A3



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proper valuation, and instead suppressed material facts while requiring the Applicant to proceed on an “as is where is” basis. It is further alleged that the RP unlawfully included the name of another person as a PRA without notice, after a lapse of 71 days from declaring the Applicant as the sole PRA in the final list.

III. However, the case of the Respondent/RP is that the present application is misconceived, frivolous, and infructuous, filed only to derail and delay the resolution process which has already concluded with the approval of a Resolution Plan by the CoC. The RP states that the applicant had every opportunity to participate in CIRP but defaulted repeatedly. A party who has failed to submit a plan despite repeated extensions cannot seek to undo the entire process. The IM was prepared as per Regulation 36. Easement rights and property title are matters for PRA’s independent due diligence. However, a copy of the relevant document relating to the passage was subsequently shared with both PRAs. It is pertinent to note that the other Resolution Applicant was able to formulate and submit its Resolution Plan on the basis of the very same information. Further, the RP



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states that the Applicant has suppressed the fact of repeated extensions granted and its continued defaults. Further, Applicant misrepresents that this Tribunal did not permit consideration of Ms. Aditi Sinha's EOI; whereas the order dated 26.11.2024 explicitly allowed the same.

- IV. On perusal of the documents available on record, it has come to light that the Applicant submitted the EOI with respect to the CIRP of the Corporate Debtor on 16.09.2024 but failed to submit the Resolution Plan within the extended timeframe.
- V. Furthermore, on bare examination of the present Application it becomes evident that the Applicant did not submit a resolution plan concerning the CIRP of the Corporate Debtor but submitted EMD of Rs. 1,00,000. Therefore, this Bench is of the considered opinion that, since the Applicant never submitted a resolution plan, the Applicant has no locus to agitate the present application. Further, an application filed for challenging the resolution process by a party which has not submitted its own resolution plan cannot be entertained and the same has been held by the Hon'ble NCLAT in the matter of



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MK Rajagopalan Vs. S. Rajendran¹⁵, wherein it was held as under-

“31. On a careful consideration of the respective contentions advanced on either side, this ‘Tribunal’, keeping in mind of a vital fact that the ‘Petitioner /Appellant’, being an ‘Unsuccessful Resolution Applicant’, has no ‘Locus’, to ‘assail’ a ‘Resolution Plan’ or its ‘implementation’, coupled with a candid fact that he is not a ‘Stakeholder’, as per Section 31 (1) of the I & B Code, 2016, in relation to the ‘Corporate Debtor’, this ‘Tribunal’, without any ‘haziness’, holds that the ‘Petitioner / Appellant’, is not an ‘Aggrieved Person’, coming within the ambit of Section 61 (1) of the I&B Code, 2016, especially, when he is not a ‘Privy’, to the ‘Resolution Plan’. Viewed in that perspective, the ‘Leave’, sought for in IA No. 215 of 2023 in Comp. App (AT) (CH) (INS.) No. 58 of 2023, sans merits.”

Thus, the contention of Respondent that the Applicant has no locus to file and agitate the present Application holds merit.

¹⁵ CA (AT)(CH)(INS) No.58 of 2023 NCLAT



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VI. In matter of Astral Agro Ventures v. Mr. Vakati Balasubramanyam Reddy (RP) and Ors¹⁶, the Hon'ble NCLAT held that a Prospective Resolution Applicant (PRA) who did not submit a resolution plan by the stipulated deadline and only submitted Expression of Interest (EOI) or EMD does not have locus to challenge the approval of the resolution plan. The Tribunal noted that only those who have submitted resolution plans and participated meaningfully in the process have locus to challenge.. Relevant para is extracted below:

“15.1 Turning to the facts of the present case, it is indisputable that the appellant has been busy purchasing time for filing the resolution plan. To go slightly backwards in time, as stated earlier, the appellant has submitted its EOI at least twice before and was also shortlisted as a PRA. It therefore, had access to the Information Memorandum of the CD, perhaps long prior to the SRA, and necessarily it had a longer time to prepare and submit its resolution plan. At least it knows or ought to have known what is expected of it and what it is expected

¹⁶ (2025) ibclaw.in 950 NCLAT



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to do. Still, it chose not to submit its resolution plan for a straight third time, yet it is still not short of shame or courage to complain that it was denied adequate time to submit the resolution plan and that the CoC had met on a day not of its choice, and had approved the resolution plan of the 3rd respondent with the kind of deliberations not to its satisfaction. Where in the scheme of the IBC, a PRA who has not even cared to submit its plan, is granted the right or authority to fix its own schedule for doing what it is required to do, and dictate terms? What exactly does the appellant want and what are its intentions? Is it busy playing a serious hide and seek game with IBC when the IBC is busy engaged in the resolution process of the CD? We believe that we are not watching any Tom & Jerry show of hide, seek and chase, nor we tolerate appellant's attempt to reduce the ongoing CIRP to an entertainment show.

15.2 It is evident that the appellant's participation in the resolution process is pretentious as its conduct is loaded with well



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concealed chicanery which aims to derail the resolution process by using legal tools, perhaps to achieve certain ulterior objectives. It is reminded that a CIRP is only considered as a proceeding in rem, and not to understand as a kind of public interest litigation. When on facts locus standi of the appellant is reduced to procedural irrelevance due to its failure to submit a resolution plan within the time stipulated, it does create considerable uneasiness in accommodating it to object to CoC's approval of the resolution plan. Its voice does not merit consideration."

Therefore, on a bare examination of the present application where the applicant did not submit a resolution plan but only an EMD, the applicant has no locus to agitate the application. The commercial wisdom of the CoC in rejecting such an applicant's participation is final and not subject to judicial interference.

VII. In order to appreciate the contention of the Applicant that sufficient time was not provided to it for the submission of a resolution plan, it deserves to be taken note of that the Applicant despite being



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granted the repeated extension on 23.10.2024, 09.11.2024, 09.12.2024 and 16.12.2024 to submit the resolution plan, did not submit any resolution plan. Further, on perusal of emails dated 06.11.2024¹⁷, 09.12.2024¹⁸, and 16.12.2024¹⁹ sent by the Applicant, it has been noticed that the Applicant expressed its willingness to submit a resolution plan but the same was never submitted, despite the COC, in light of the request made by the Applicant, extending the last date for submission of the resolution plan till 16.12.2024. Thus, this bench is of the opinion that the Applicant's contention with respect to the same does not hold merit.

VIII. The principal contention of the Applicant relates to the alleged non-disclosure of certain access-related and asset-related particulars in the Information Memorandum ("IM"), purportedly in violation of Regulation 36(2)(a) of the CIRP Regulations.

IX. Regulation 36 obligates the RP to collate and disclose information relating to the Corporate Debtor as is available with the Corporate Debtor and from public or statutory records. The said Regulation does not cast an obligation upon the RP to certify title,

¹⁷ Page No- 52 of the application

¹⁸ Page No- 53 of the application

¹⁹ Page No- 54 of the application



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easementary rights, or commercial feasibility of the assets, nor does it require the RP to adjudicate disputed property rights or access arrangements. The IM and the Request for Resolution Plan (“RFRP”) documents clearly stipulated that the Resolution Plan was to be submitted on an “as is where is basis’, subject to independent due diligence by the PRAs. The Relevant para of the RFRP documents is extracted below (Page No 29 of the supplementary affidavit of RP dated 05.08.2025):

“The Resolution Applicant should conduct independent investigations and analysis and should check the accuracy, reliability and completeness of the information in this RFRP and obtain independent advice from appropriate sources, prior to making an assessment of the Company.

The Resolution Applicants shall be deemed to have conducted a due diligence exercise with respect to all aspects of the Company when they submit the Resolution Plan. Failure to conduct a due diligence exercise will not be a valid ground to relieve the Resolution Applicant subsequently after submission of



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its Resolution Plan nor shall it relieve the Resolution Applicants from any responsibility for estimating the difficulty or costs of successfully fulfilling the terms and condition of Resolution Plan.”

- X. The grievance raised by the Applicant, arising from its site visits and alleged discovery of access-related issues, pertains to commercial assessment and risk evaluation, which fall squarely within the domain of the Resolution Applicant's own due diligence. Commercial inconvenience or post-facto dissatisfaction cannot be elevated to a statutory infraction. No material has been placed on record to demonstrate suppression, misrepresentation, or non-disclosure attributable to the RP so as to constitute a violation of Regulation 36. Accordingly, this Tribunal records a categorical finding that no breach of Regulation 36 of the CIRP Regulations is established.
- XI. This Adjudicating Authority deems it appropriate to observe that the duty of the RP in preparation of the IM and RFRP is not merely to discharge in a mechanical manner by merely asserting that all available information has been circulated. The RP is



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expected to act diligent and to address concerns transparently, to the extent information is available.

XII. The challenge to the inclusion of another PRA is equally untenable. The record demonstrates that pursuant to the order dated 26.11.2024²⁰ passed by this Adjudicating Authority, prospective applicants were permitted to submit their Resolution Plans and a revised list of PRAs was circulated on 04.12.2024²¹. Relevant para of order dated 26.11.2024 is extracted below:

“2.A.II. The Tribunal may be pleased to allow RP/CoC to consider the EOI/Resolution Plan by the sole interested party submitted after the due date as mentioned in the Last Form - G issued including corrigendum as there are no other resolution plans, without further issue of Form - G in this regard; and/or.

D. We have perused the application and the documents attached there with and heard the Ld. Counsel for the Applicant. We are satisfied with the prayer made in the IA should be allowed in

²⁰ Annexure- A of RP's supplementary affidavit dated 05.08.2025

²¹ Page No- 52 of the application



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view of the facts pleaded in the application for enlargement of 60 days.

E. In view of the facts pleaded above, both the prayer(s) are allowed.”

The Applicant raised no contemporaneous objection and, in any event, failed to submit a Resolution Plan even thereafter. The Code does not confer any vested or exclusive right upon a PRA to insist upon sole participation in the resolution process.

XIII. It is undisputed that the Resolution Plan submitted by the other Resolution Applicant has been approved by the CoC with 100% voting share, a Letter of Intent has been issued, and the Resolution Plan approval application is already pending before this Tribunal. At such an advanced stage of the CIRP, judicial interference is permissible only on limited grounds expressly recognised under the Code. Alleged procedural dissatisfaction of an unsuccessful or non-participating applicant does not constitute a valid ground to unsettle the collective commercial decision of the CoC.

XIV. The Hon’ble Supreme Court of India, in a catena of judgments, has consistently held that the scope of judicial review vested in the Adjudicating Authority



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over the commercial decisions of the Committee of Creditors is extremely limited. Such review is confined to examining whether the decision-making process conforms to the provisions of the IBC, 2016 and the regulations framed thereunder, as held in Committee of Creditors of Essar Steel India Ltd. Vs. Satish Kumar Gupta²² and K. Sashidhar Vs. Indian Overseas Bank & Ors²³.

7. Accordingly, the Application, along with all interim prayers, stands dismissed.
8. With the above directions, IA(IBC) No.155(KB)2025 is dismissed and disposed of.
9. The Registry is directed to send e-mail copies of the order to all the parties and their Ld. Counsel for information and for taking necessary steps.
10. Let the certified copy of the order may be issued, if applied for, upon compliance of all requisite formalities.

(Rekha Kantilal Shah)
Member (Technical)

(Labh Singh)
Member (Judicial)

Order signed on the 13th day of January 2026

S.T. LRA

²² (2019) 16 SCC 479

²³ 2019 SCCOnline SC 257