

SL. No.1

**NATIONAL COMPANY LAW TRIBUNAL  
HYDERABAD BENCH  
COURT HALL NO: II**

**Hearing Through: VC and Physical (Hybrid) Mode**

**CORAM: SHRI.RAJEEV BHARDWAJ- HON'BLE MEMBER (J)**

**CORAM: SHRI.SANJAY PURI - HON'BLE MEMBER (T)**

**ATTENDANCE-CUM-ORDER SHEET OF THE HEARING OF NATIONAL COMPANY LAW TRIBUNAL,  
HYDERABAD BENCH, HELD ON 21.12.2023 AT 10:30 AM**

<b>TRANSFER PETITION NO.</b>	
<b>COMPANY PETITION/APPLICATION NO.</b>	IA (IBC)/1441/2023 in CP (IB) No.43/7/HDB/2018
<b>NAME OF THE COMPANY</b>	Leo Meridian Infrastructure Projects & Hotels Ltd
<b>NAME OF THE PETITIONER(S)</b>	Andhra Bank
<b>NAME OF THE RESPONDENT(S)</b>	Leo Meridian Infrastructure Projects & Hotels Ltd
<b>UNDER SECTION</b>	7 of IBC

**ORDER**

**IA (IBC)/1441/2023**

Orders pronounced, recorded vide separate sheets. In the result, this application is dismissed.

**Sd/-**  
**MEMBER (T)**

**Sd/-**  
**MEMBER (J)**

Vamsi

**IN THE NATIONAL COMPANY LAW TRIBUNAL**

**HYDERABAD BENCH - II**

**I.A.No.1441 of 2023 in  
CP (IB) No.43/07/HDB/2018**

**In the matter of**  
**M/S. LEO MERIDIAN INFRASTRUCTURE PROJECTS**  
**AND HOTELS LIMITED**

**Between:**

M/s. Leo Meridian Employees Society  
Rep. by its President Mr. K. Ramakrishna Raju,  
H.No.4-42/1, Leonia Holistic Destination  
Bommarasipet Village, Shamirpet Mandal,  
Medchal-Malkajgiri District,  
Hyderabad – 500 078.

**.... Applicant**

Vs.

1. Union Bank of India,  
Sole Financial Creditor and Member of CoC of  
Leo Meridian Infrastructure Projects and Hotels Limited,  
SCF Branch, The Belvedere, 6-3-891 & 892,  
Raj Bhawan Road, Somajiguda,  
Hyderabad – 500 082.
2. The Resolution Professional of  
of Leo Meridian Infrastructure Projects and Hotels Limited  
FF 26, Raghava Ratna Tower, Chdirag Ali Lane,  
Abids, Hyderabad – 500 001.

**..... Respondents**

**Date of order: 21.12.2023**

**CORAM:**

Hon'ble Rajeev Bhardwaj, Member (Judicial)  
Hon'ble Sanjay Puri, Member (Technical)

**Counsels present:**

For the Applicant : Mr. V. Raghunath, Advocate  
For the Respondents : Mr. Avinash Alladi, Advocate  
Mr. Krishna Mohan Gollamudi, RP  
Heard on : 20.11.2023

**[Per: Sanjay Puri]**

**ORDER**

1. This Application is filed by Mr. K Ramakrishna Raju, President of Leo Meridian Employees Society, seeking to allow/grant representation to the Applicant in Committee of Creditors (CoC) or any other Committees of the Corporate Debtor (CD) to assist the Respondents.

**The facts of the case as per the Applicant:**

2. It is asserted that the proximate cause of the current CD's situation is attributable to numerous irregularities and actions taken by the Respondents. It is further emphasized that the continuation of such actions would result in severe consequences, significantly impacting the lives of the members of the Applicant society.
3. It is stated that, based on decisions made by the Respondent Bank and the records related to the land in Sy. No. 388 and 389 of Bommaraspeta Village, it is evident that the CD mortgaged the land to Bank of Baroda. Subsequently, a hotel was constructed on the land, and there were no complaints from any third party. It is further asserted that, according to the sanction letter, the CD, along with its management and promoters, was obligated to construct a hotel building comprising 265 rooms in Sy. No 389. However, a part of the building was constructed in Sy. 389, making enforceability of mortgage difficult.
4. The Applicant asserts that Bank of Baroda has initiated legal action by filing an application before the Debt Recovery Tribunal (DRT) in Hyderabad to recover its claim. Furthermore, the Bank has lodged a criminal complaint challenging the enforceability of the mortgage created by the CD. Surveys of the land have been conducted by Bank of Baroda, Union Bank of India, and even by the Resolution

Professional (RP). These surveys categorically highlight an overlap in land between the outskirts of Bommaraspet and Shamirpet villages.

5. The Applicant argues that the frequent changes of bank employees within the CoC has led to a lack of continuity and understanding of past events and decisions. This disruption has impeded the Corporate Insolvency Resolution Process (CIRP) and caused significant delays.
6. The Applicant asserts that the CD has faced significant financial, operational, and reputational losses attributable to indecisiveness and a lack of timely support from the bank. It is argued that instead of assisting the company in completing projects, the banks have dragged the CD in litigation. Furthermore, the Applicant contends that the banks have sought to give the entire matter a criminal colour to cover up their irresponsible actions at various stages.
7. It has been alleged that the RP and Damodar Reddy are colluding. Damodar Reddy, identified as a Professional Extortionist, is accused of inciting complaints, and banks are purportedly falling victims to his schemes. During the CIRP, Damodar Reddy reportedly entered into the property of M/s LMIPHL, threatening employees and causing huge nuisance, leading to the filing of a FIR and a corresponding complaint.
8. The Applicant contends that given the extensive landbank held by the CD, it is common to encounter disputes related to these lands. As the Bankers possess knowledge and expertise, they should proceed with the principle of "as is where is and as is what is" basis. The repetitive surveys conducted by the Respondents are purportedly self-explanatory. It is further alleged that the Respondents have spent huge public funds on consecutive surveys and legal pursuits but have failed to take steps to realize the money through the sale of properties.
9. It is claimed that one of the Resolution Applicants has submitted a plan, and there is a suspicion that the financial resources of this

particular Resolution Applicant are unlawfully sourced. The plan is alleged to contain untenable clauses and is perceived as having false financial resources. The contention is that, rather than adhering to this plan, if the RP had set it aside and continued with the CIRP, the proceedings might have concluded much earlier.

10. The Applicant contends that the former RP Mr. Raj Kumar Ralhan, appointed for CIRP did not fulfil his prescribed duties. It is alleged that Mr. Ralhan intentionally withheld crucial information from the CoC, leading to mismanagement of CoC proceedings. Furthermore, the RP is accused of breaching their fiduciary duty by not acting in the best interest of the company and its stakeholders. Consequently, the RP was found guilty, and the Insolvency and Bankruptcy Board of India (IBBI) issued an Order on June 13, 2023, placing him on hold for a period of two years.
11. The Applicant states that despite several requests made by them to the RP and members of the CoC to initiate actions against land encroachers, the Respondents have not taken any action.
12. The Applicant asserts that it is disheartening to note that the CoC is failing to fulfil its obligations, as evidenced by the non-payment of salaries to employees. It is contended that, while employees are suffering financial hardships, the CoC is willing to allocate substantial funds for additional surveys and due diligence, which is a negligent use of the company's hard-earned money. It states that, instead of allocating large funds to endless litigation, which has been concluded by top investigating agencies prior to the CIRP, the Applicant ought to have allocated a significantly lower amount for the realization of funds and conducted due diligence on Resolution Plans.
13. It is also averred that despite receiving multiple prospective Resolution Plans, including those from M/s JEPL Consortium and Mr. D.V. Satyanarayana, the CoC failed to enforce significant changes or

revisions to the submitted plans. This lack of scrutiny and oversight raises serious doubts about the CoC's commitment to protecting the interests of all stakeholders.

14. It is argued that the conditional plan submitted by JEPL consortium appears to have the intention of paying minimal amounts to Banks, acquiring property, and engaging in prolonged legal battles. Despite concerns raised, JEPL has not made any changes to its plan. After being declared as H1, JEPL initiated litigation against Banks, causing significant delays in the CIRP process. Complaints were filed questioning the feasibility of the plan, and internal discussions were leaked to the JEPL consortium. The RP has supported the JEPL plan, despite being aware of its false net worth and questionable sources of funds. It was also mentioned that Banks have received letters with evidence about the plan, but no actions were taken. The RP failed to defend against cases filed by the consortium.
15. It is contended that the actions of the RP appeared to be aimed at forcing the company into liquidation. Instances have been highlighted wherein the RP allegedly harassed vendors, professionals, and employees, leading to damaged operational efficiency and a tarnished company reputation. It is also submitted that the RP seems to have continued unlawful practices during the earlier resolution process and is engaged in misusing the CD for personal benefit. Additionally, the RP is accused of deliberately concealing crucial information from the CoC, among other transgressions. These violations have caused significant harm to the stakeholders involved.
16. It is contended that several facts, such as the issuance of RFRP without compliance of the IBC, frequent changes in the decisions of members of the CoC and encouragement of trespassers by the Respondents despite the provision of due information with cogent evidence, are concerning. The designation of an unrealizable

Resolution Applicant (RA) as H1 without considering the furnished financial evidence and the lack of initiation of possible steps towards resolution, leading to the consideration of liquidation, are also highlighted. Previously, until 2019, there was an Employee-cum-Director Mr. Sunil, who had such representation, which may have assisted in decision-making by the CoC. Therefore, the Applicant seeks representation in the CoC.

**The Counter:**

17. The Respondent contends that the Applicant is well aware of the status of the CIRP and the ongoing litigation before the Hon'ble NCLAT and the Hon'ble Supreme Court. Any confidential information related to CIRP can be shared, subject to the provisions of the Insolvency and Bankruptcy Code (IBC).
18. It is further submitted that the RP has carried out their duties in accordance with the provisions outlined in the IBC with utmost transparency. They are maintaining the CD as a going concern, safeguarding the interests of stakeholders. The General Manager, overseeing the day-to-day operations of Resorts (Leonia Holistic Destination) owned by the CD, is providing assistance, along with the Heads of Departments (HoDs) of respective Departments. Progress Reports are filed periodically to update the present status of the CIRP. The Respondent attributes the delay in the CIRP to the initial impact of the Covid lockdown and various litigations initiated by the resolution applicants.
19. Additionally, it is averred that Mr. Damodar Reddy is unknown to Respondent 2, and there is no acquaintance with such a person. The Respondent also asserts having no knowledge of any nexus between Mr. N.V. Rama Raju and K. Damodar Reddy, as no documentary proof has been filed by the Applicant to substantiate these allegations.

20. It is further contended that conducting due diligence is the prerogative of Respondent No. 2 and the CoC. The Applicant has no locus standi to question or interfere with the commercial decisions of the CoC, and the CoC's prerogative is to decide while keeping in mind the prime objective of value maximization.
21. Moreover, it is argued that Respondent No. 2 and the CoC have no role or control over the civil or criminal cases against the erstwhile promoters of the Company. The Applicant, failed to produce any supporting evidence to substantiate their allegations. The statement notes that the erstwhile RP followed the due process prescribed by the Code for verifying Resolution Applicants (RAs), and only after they were found eligible to submit a Resolution Plan, the list of Prospective Resolution Applicants (PRAs) was declared. The eligibility under Section 29A of the Code was also verified through due diligence, wherein the RAs were found to be eligible.
22. The submission emphasizes that there are currently multiple litigations before the Hon'ble NCLT, NCLAT Chennai, and the Hon'ble Supreme Court, causing delays in the CIRP. It is noted that CoC members are being updated periodically about the progress in these matters, and Respondent No. 2 is filing Progress Reports before this Hon'ble Tribunal regularly.
23. Respondent No. 2 herein made a representation before the RDO, Keesara Division, Medchal Malkajgiri District, regarding the status of the CIRP of the CD. The Officer was informed about the ongoing moratorium under Section 14 of the Code, emphasizing that no proceedings can be initiated against the CD by the RDO.
24. CoC members engaged in negotiations with the RAs for value maximization of the CD. Following detailed deliberations, the CoC members requested the erstwhile RP to advise the H1 bidder to amend the draft Resolution Plan. Prior to this, another round of negotiations

took place with the Jalavihar consortium to enhance the commercial aspects. An amendment was introduced to the IBBI (Insolvency Resolution Process for Corporate Persons) Regulations, 2020, which mandated CoC members to vote on all compliant resolution Plans. Consequently, both Resolution Applicants were asked to submit their final plans. The RP invited final Resolution Plans by August 15, 2020.

25. Challenging the decision of the CoC, an Application was filed before this Tribunal, seeking to set aside the 28th meeting of the CoC dated 12.08.2020. The Application challenged the erstwhile RP's invitation for final Resolution Plans after declaring the Applicant as H1 bidder.
26. Aggrieved by the Order dated 07.05.2021, the Jalavihar consortium/RA appealed before the Hon'ble NCLAT, which, by Order dated 16.08.2022, set aside the previous order and directed the CoC to consider plans submitted before 12.08.2020. The CoC placed both Resolution Plans for approval in the 44th CoC meeting held on 29.08.2022.
27. In the 49th CoC meeting, the decision to file an Application for the inclusion of a challenge mechanism in the RFRP and to cancel the voting of Resolution Plans was made. This was dismissed by the Hon'ble Tribunal as not maintainable due to the contents of the NCLAT's Order dated 16.08.2022.
28. Aggrieved by the NCLAT's Order dated 16.08.2022, the RA Mr. D.V. Satyanarayana approached the Hon'ble Supreme Court, which granted liberty to the Appellant to file an Application before the Hon'ble NCLAT and kept the NCLAT's Order in abeyance awaiting the Supreme Court's orders.
29. The Resolution Plans are yet to be approved, subject to the outcome of appeals pending before the Hon'ble NCLAT Chennai and the Hon'ble Supreme Court. In the 54th CoC Meeting, the filing of an

extension/exclusion Application was not approved, and in the 55th CoC Meeting, the CoC sought time to take internal approvals for deciding on liquidation. Exclusion of the time period was sought before this Hon'ble Tribunal via IA No. 762 of 2023. However, the CoC expressed interest in liquidation, and when resolutions for liquidation were placed before them, they were not passed. As a result, Respondent No. 2 filed another Application for the exclusion of the time period (IA No. 918 of 2023).

30. It is asserted that the CoC members suggested that Respondent No. 2 herein appoint an agency to identify assets not recorded in their records and to take necessary steps accordingly. The 59th CoC meeting deliberated that any decision on the liquidation of the CD could only be made upon obtaining clarity on asset-related issues and receiving final orders in the appeal pending before the Hon'ble Supreme Court. In pursuit of this, Respondent No. 2 is seeking an exclusion of the time period before this Hon'ble Tribunal primarily due to the ongoing litigation before the Hon'ble NCLAT and Supreme Court.
31. Respondent No. 2 is reported to have supported employees by releasing funds for COVID vaccine payments, and salary increments were provided twice during the CIRP after the normalization of business post-Covid. The assertion is made that the erstwhile management of the CD has the right to participate in CoC meetings per the provisions of the Insolvency and Bankruptcy Code. Invitations are consistently sent to the suspended board of Directors of the CD for every meeting. It is further submitted that there are no pending claims from employees as their salaries are up to date.

**The Decision:**

32. The Applicant has levelled numerous accusations, insinuations, and assertions against the respondents with the aim of securing a position on the CoC. Despite the lack of substantiation for the accusations, the unconvincing nature of insinuations, and the absence of evidence supporting any wrongdoing by the respondents, the role of the Applicant in the context of the Insolvency and Bankruptcy Code (IBC) can still be looked into.
33. Whether the Applicant herein has any "locus standi" that enables them to represent in the CoC or any other committee of the CD to assist the Respondents, is the question that needs to be answered.
34. For this we need to look at the provisions of Section 21 of IBC which determines who can be the members of the CoC. From the bare reading of section 21, it is evident that only the financial creditors of the CD shall be part of the CoC.

*"21. Committee of Creditors*

*(1) XXX*

*(2) The Committee of Creditors **shall comprise all financial creditors of the corporate debtor;***

*....*

*.... "*

35. Only in cases where no financial debt is involved, representatives elected by the workmen/employees can form part of the CoC.<sup>1</sup> In the present case, however, since the CIRP was initiated at the instance of a Financial Creditor, role of anyone other than the financial creditors in the composition of CoC has not been envisaged.
36. The Code is also specific about who can attend the meeting of the CoC. Section 24 provides for who can be given notice for the meeting of the CoC and who will have the voting rights

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<sup>1</sup> Regulation 16 of IBBI (Insolvency Resolution Process for Corporate Persons) Regulations 2016

“24. Meeting of committee of creditors.

(1)XXX

(2)XXX

– (3) The resolution professional shall give notice of each meeting of the committee of creditors to-

(a) members of committee of creditors, including the authorised representatives referred to in sub-sections (6) and (6A) of section 21 and sub-section (5);

(b) members of the suspended Board of Directors or the partners of the corporate persons, as the case may be;

(c) operational creditors or their representatives if the amount of their aggregate dues is not less than ten per cent. of the debt.

(4) The directors, partners and one representative of operational creditors, as referred to in sub-section (3) may attend the meetings of the committee of creditors, but shall not have any right to vote in such meetings.

....

....”

37. In the instant case the Applicant is an employee society which is not the financial creditor of the company therefore the Applicant has no locus standi to file the present Application in the capacity of an Employees society seeking representation in the CoC or any other Committees of the Corporate Debtor.
38. Reference in this regard is also made to the decision of the Mumbai Bench of this Tribunal in Mr. Anil N. Surwade and others v. Mr. Prashant Jain<sup>2</sup> which has also been confirmed by the Hon'ble NCLAT<sup>3</sup>. It was observed therein that:

*“Admittedly the Applicants have been the employees of the Corporate Debtor. They have not been the Members of the Board of Directors of the Company. Their involvement in the Insolvency Resolution Process of the Corporate Debtor is limited to the satisfaction of their claims with regard to the entitlement from the Corporate Debtor. They certainly cannot have any role in the Insolvency Resolution Process nor can they have any involvement in the meeting or deliberation of the CoC”*

<sup>2</sup> In IA No. 1033 of 2020 in C.P. (IB) No. 1799 of 2018 decided on 28/09/2020: **MANU/ND/3767/2021**

<sup>3</sup> Company Appeal (AT) (Insolvency) No. 1006 of 2020 - Decided on 03/12/2020: **2020 SCC OnLine NCLAT 805**

The above decision was later followed by NCLT Mumbai in National Aviators' Guild (NAG) vs. Ashish Chhawchharia and Ors.<sup>4</sup>

For the reasons as above, the prayer of the Applicant Society is declined and Application dismissed with costs.

**Sd/-**

**(SANJAY PURI)  
MEMBER (TECHNICAL)**

**Sd/-**

**(RAJEEV BHARDWAJ)  
MEMBER (JUDICIAL)**

*Rohit*

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<sup>4</sup> Order Dated 22.02.2021 in IA Nos. 1862, 2125, 2248 and 2449/MB/2020 in CP (IB) No. 2205/MB/2019  
**MANU/ND/3767/2021**