



**IN THE NATIONAL COMPANY LAW TRIBUNAL
ALLAHABAD BENCH, PRAYAGRAJ**

IA No.226/2023 IN CP (IB) NO.45/ALD/2019

In the matter of

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

IN THE MATTER OF:

- 1.** Sumitro Chartarjee son of Ajay Chatarjee
Resident of FF-3 L-29 Sector 12 Pratap Vihar,
Ghaziabad, UP-201009.
- 2.** Anupam Chaudhary son of Pramod Kumar
Resident of A-31, Ist Floor,
Govindpuram, Ghaziabad.
- 3.** Mrs. Manisha wife of Tapesht Tyagi,
Resident of House No.243, Azanta Colony,
Garh Road, Meerut U.P.
- 4.** Anupam Kumar Rastogi son of Late Shri H.C. Rastogi
Resident of B-661, NTPC Township Vidyutnagar,
G.B. Nagar, U.P.-201008.
- 5.** Poonam daughter of Ajayaveer Singh
Resident of 234, Chhajarsi,
Kulich Nagar, Pilkhaunwa, Ghaziabad.

..... Applicants

Versus

Mr. Alok Kumar Kuchchal, Liquidator
Ratandeeep Infrastructure Private Limited

..... Respondent

IN THE MATTER OF:

Nitin Jain and others

..... Financial Creditors



Versus

Ratandeep Infrastructure Private Limited

..... Corporate Debtor

Order pronounced on 21st September, 2023

Coram:

Mr. Praveen Gupta. : Member (Judicial)

Mr. Ashish Verma : Member (Technical)

Appearances:

Sh. Nishant Mehrotra, Adv. : For the Applicant in IA No.226/2023

Sh. Yash Tandon, Adv. : For the Respondent in IA No.226/2023

ORDER

1. The present application has been filed by the applicants (home buyers) under Section 60(5) of the Insolvency and Bankruptcy Code,2016 (hereinafter referred to as IBC,2016) r/w Rule 11 of the NCLT Rules,2016 seeking the followings directions:-

a. "...

a. Allow the present application;

b. To take note of the conduct of the liquidator in terms of the relation between liquidator and ex-management and their related and connected parties, which the liquidator has concealed while being appointed as IRP, RP and liquidator, and pass appropriate orders in this regards;



c. To pass appropriate orders/directions to liquidator to act in accordance with and to abide by the directions issued by this Hon'ble Tribunal in paragraph 10 of the order dated 01.06.2022 passed in IA No. 154 of 2022 in the present company petition;
d. Set aside the auction dated 06.06.2021 of the assets on corporate debtor and the consequent proceedings thereto;

....”

2. The following averments have been made in the application by the applicants :-

- i. The liquidator has allegedly engaged in collusion with the corporate debtor's promoters or their close associates, resulting in a questionable pecuniary relationship. This raises doubts about the suitability of the liquidator for the roles of IRP (Interim Resolution Professional), RP (Resolution Professional), and liquidator in the ongoing liquidation proceedings of the corporate debtor. In this regard, applicants have also filed an additional affidavit for submission of a table reflecting /establishing the pecuniary relationship between promoters of the corporate debtor, copy of which has been annexed as **Annexure SA-1** with the additional affidavit.



- ii. There are allegations that the consent letters provided by the liquidator in his capacity as IRP, RP, and liquidator have been fabricated and fraudulently prepared, casting doubt on their authenticity.
- iii. Furthermore, it has been asserted in the application that one of the members of the COC, M/s BG Freight Shopee India Pvt. Ltd, (having 8.29% of vote shares) is also shareholder in Silvertan Papers Private Limited, where the liquidator previously held the position of Director along with his associate Chanchal Yadav on 30.09.2020. Corporate debtor's promoters namely, Shri Sunrendra Agarwal, Pankaj Agarwal, Mr. Prasoon Agarwal were also shareholders in the same company.
- iv. Furthermore, it is essential to bring to the attention of this Hon'ble Tribunal that the Liquidator has established business connections with the former director of the Corporate Debtor, namely Sh. Surendra Kumar Aggarwal, and his family members. This association raises concerns about the Liquidator's suitability to serve in this capacity, as he has taken on director roles in companies affiliated with Sh. Surendra



Kumar Aggarwal. Notably, the said company, M/s Silvertan Papers Limited, where the ex-director of the corporate debtor and his family members have shareholding, operates from the same Delhi office as the Liquidator, which is located at B-6/205, Laxmi Complex, Subhash Chowk, Laxmi Nagar, Delhi-110092. This association raises concerns about potential conflicts of interest and impartiality in the Liquidator's role.

- v. It is further averred in the application that another address of M/s Silvertan Papers Limited as per MCA Data is 9th KM, Bhopa Road, Muzaffarnagar, 251001-UP on which another company alleged to be the shell company is run by Mr. Sundra Kumar and Pankaj Kumar namely Tirupathi Balaji Fibres Ltd showings its registered office at this address. Relatives of Ex-Director –Mr. Surendra Kumar Agarwal were appointed as Director in this alleged company. Moreover, Liquidator was also appointed as director in this shell company on 02.04.2020 while he was acting as RP of the corporate debtor.



- vi. It is stated that another two companies i.e. M/s Indiacorp Law, Knowledge Professional private Ltd. and M/s Anantprabha Enterprises Pvt. Ltd. operates from the same address where office of Silvertan Papers Limited is located i.e. B-6/205, Laxmi Complex, Subhash Chowk, Laxmi Nagar, Delhi-110092. A copy of registered address of "M/s Knowledge Professionals Pvt. Ltd." and "M/s Anantprabha Enterprises Pvt. Ltd." from the website of Ministry of Corporate Affairs is annexed as Annexure **No. 5** with the Application. It is stated that records from the Ministry of Corporate Affairs reveal that the directors of "M/s Knowledge Professionals Pvt. Ltd." are Sharwan Kumar Kuchhal, Parul Kuchhal, and Chanchal Yadav, while the directors of "M/s Anantprabha Enterprises Pvt. Ltd." are Parul Kuchhal, Chanchal Yadav, and Sanghmitra Rout. It is pointed out that, these individuals have close familial or business ties with the liquidator.
- vii. As pointed out by the applicant, the Liquidator published an Auction Notice with a bid price of Rs 7 Crores for a land of the corporate Debtor having size



3542 SQM, which equates to a rate of Rs 19763 per SQM. This rate in view of the applicant appears to be significantly lower than the current market rates. The applicant contends that such practice of lower valuation raises suspicion of potential fraud. Therefore the applicant is of the opinion that, a Notice to the Valuer may be issued, requesting clarification on the methodology used to determine this valuation. As per the applicant based on available information and prevailing market rates, it is evident that the land's worth should be significantly higher, likely no less than Rs. 35000 per SQM. In light of the above pleas taken by the applicant, it is urged by the applicant that this Hon'ble Tribunal to grant the Applicant the opportunity to conduct an independent valuation and present the findings to this Hon'ble Tribunal. As per the applicant such an assessment should be based on current market rates, taking into account the fact that the land values tend to appreciate over time.

viii. It is also pointed out by the applicant that this land is a UP RERA Registered housing project named Silver



Homes having RERA Registration No. UPRERAPRJ12399 which is partly developed residential housing project having validity till 28.06.2023 for completion. Copy of particulars from UP RERA website has been annexed an **Annexure-6** with the Application.

- ix. It is averred in the application that liquidator proceeded with liquidation process in violation of order dated 25.05.2022 passed in I.A No. 154 of 2022 filed by the Bankey Bihari InfraHomes Private Limited.
- x. The Applicant also mentioned that the respondent/liquidator has not uploaded the e-auction notice on the IBBI Website and also not given any intimation/discussion with the stakeholders including the applicant. Therefore, as per the applicants, this conduct of the liquidator shows that he has neither intimated the applicant regarding the e-auction nor he uploaded such auction of IBBI website which shows that the liquidator actions are illegal, opaque and actuated by malafide considerations.
- xi. It is averred in the application that M/s AKG Real Tech Private Limited, (Successful bidder of the Auction) was



established on 21.12.2021. Notably, the Hon'ble Tribunal issued an order for the liquidation of the Corporate Debtor on 31.01.2022. As per the Applicant, this timeline raises concerns about the potential collusion between the Auction Purchaser Company and the liquidator to sell the corporate debtor's assets at an undervalued price to a party lacking the necessary credentials and background. In view of the applicant, this time line shows the Auction Purchaser Company was created around the same time when the liquidation application was filed and the subsequent liquidation order was passed suggesting a pre-determined arrangement for the auction.

- xii. Furthermore, the applicant submitted that it has come to the knowledge from the I.A No. 193 of 2022 filed by the respondent that the respondent intentionally omitted to disclose the number of participants in the E-Auction Process. However, the documents attached to the respondent's application clearly indicate that there was only one bidder, namely M/s AKG Real Tech Private Limited, which raises questions about how the bid value



increased from the base price of 7 Crores to 7.40 Crores when there was no competitive bidding or other bidders involved.

3. On the basis of above allegations made in the application, it has been tried to show that liquidator has conducted the CIRP and liquidation process of the corporate debtor in violation of the provisions of the IBC,2016 and Liquidation Process Regulations, 2016.
4. During the course of the hearing of this case, as argued by the Ld. Counsel of parties, we find that the Hon'ble NCLAT in its order dated 06.12.2022 passed in Company Appeal (AT) (Ins.) No. 718 of 2022 filed by M/s Bankey Bihari Infrahomes Private Limited has categorically dealt with the issued raised by the applicants in the instant application and held as under:-

“.....

35. In view of the above-stated situation and the turn of events, we are of the clear opinion that the Liquidator, being duty bound to proceed in accordance with the provisions of IBC and Liquidation Process Regulations when the purported scheme was not submitted in three weeks, acted quite appropriately and in consonance with the provisions of law by issuing the auction notice dated 19.5.2022 which was published in newspapers on



20.5.2022. The submission of the said scheme by the Appellant on 24.5.2022 after a delay of twenty days and the filing of IA No. 154/2022 on 25.5.2022, should therefore, be viewed in this context. The order of the Adjudicating Authority dated 1.6.2022 in IA 154/2022, where after a fresh auction notice was published by the Liquidator are also events that follow the correct course as stipulated in the liquidation process of the corporate debtor.

36. We now turn our attention to the features of the scheme submitted by the Appellant, albeit after much delay, to understand whether the Appellant was interested in providing a credible scheme of compromise and arrangement.

37. A perusal of the scheme (attached with the Affidavit of the Liquidator, filed vide Diary No. 40689 dated 1.11.2022) tells us that the total payments proposed to all the stakeholders is provisioned at Rs. 11,48,56,758. This amount includes a figure of Rs. 1.5 crores for payment to the creditors whose claims were not admitted by the RP during CIRP. Another amount of Rs. 1.32 crores has been provisioned for payment to other creditors/stakeholders, unsecured financial creditors who are related parties and other creditors/stakeholders. Thus, an amount of approximately Rs. 2.82 crores is proposed as payment to creditors, who may not be entitled to any payment in the



liquidation process of the corporate debtor or would come lower down in 'waterfall mechanism' and may not even get such large payments. Further the very important financial creditors in class, who are 33 homebuyers in number and have filed a total claim of Rs. 2.68 crores during the CIRP of the corporate debtor, are proposed to be paid within 90 days from the date of approval of the scheme whereas other creditors are to be made 100% payments irrespective of whether their claims are admitted or not by the Liquidator. The flats are supposed to be completed in 24 months and provided to the homebuyers against their claims filed with the Liquidator. It is not at all clear as to how the homebuyers who have only paid part of the total cost will be treated and whether they will be required to pay any extra amount and what would be its quantum.

38. It is, therefore, noted that the purported scheme proposes to make payments to a number of related parties/unsecured creditors/not submitted claims upto an extent of 100% of admitted claimed amounts. Another issue in the proposed scheme is that it proposes to make payments within 90 days of approval of scheme whereas in the event of auction-sale the payments would be made promptly to claims in accordance with the 'waterfall mechanism' under section 53 of IBC.

.....



40. We also note that only 33 allottees have filed a total claim of Rs. 2.68 crores during the CIRP of the corporate debtor which means that, on an average, each allottee has claimed Rs. 8.10 lakhs. Considering this full amount to have been used for construction of flats, it is quite understandable that the level of construction would not be significant. How then the Appellant, as proponent of the scheme of compromise and arrangement, proposes to bring in additional funds to complete construction and how he will bring in the extra funds is unclear on a deeper examination of the scheme. The said scheme, therefore, appears to be a 'fictional one' ostensibly to appropriate the land to the benefit of a select few who are related parties of the corporate debtor. 41. Both the Learned Counsel for Appellant and the Learned Counsel for Respondent No. 2 have cited the judgment of Hon'ble Supreme Court in the matter of **Arun Kumar Jagatramka vs. Jindal Steel and Power Limited & Anr. [(2021) 7 Supreme Court Cases 474]** in support of their rival contentions with regard to any ineligibility that would attach to the Appellant in providing a scheme of compromise and arrangement under section 230 of the Companies Act, 2013 with reference to section 29-A of IBC which pertain to ineligibility of related persons to submit resolution plan and section 35(1)(f) of IBC, which is a provision applicable during liquidation. It is instructive to have a look at the relevant portion of the



Arun Kumar Jagatramka judgment (supra), which is as hereunder:-

“71.....In the context of the statutory linkage provided by the provisions of Section 230 of the 2013 Act with Chapter III IBC, where a scheme is proposed of a company which is in liquidation under the IBC, it would be farfetched to hold that the ineligibilities which attach under Section 35(1)(f) read with Section 29-A would not apply when Section 230 is sought to be invoked. Such an interpretation would result in defeating the provisions of the IBC and must be eschewed.

72. An argument has also been advanced by the appellants and the petitioners that attaching the ineligibilities under Section 29-A and Section 35(1)(f) IBC to a scheme of compromise and arrangement under Section 230 of the 2013 Act would be violative of Article 14 of the Constitution as the appellant would be “deemed ineligible” to submit a proposal under Section 230 of the 2013 Act. We find no merit in this contention. As explained above, the stages of submitting a resolution plan, selling assets of a company in liquidation and selling the company as a going concern during liquidation, all indicate that the promoter or those in the management of the company must not be allowed a back-door entry in the company and are hence, ineligible to participate



during these stages. Proposing a scheme of compromise or arrangement under Section 230 of the 2013 Act, while the company is undergoing liquidation under the provisions of the IBC lies in a similar continuum. Thus, the prohibitions that apply in the former situations must naturally also attach to the latter to ensure that like situations are treated equally.”

42. A perusal of the above-mentioned observation in the **Arun Kumar Jagatramka judgment (supra)** makes it very clear that the promoter or those in the management of the company under liquidation cannot be allowed a ‘backdoor entry’ into the company and hence, would be considered ineligible to submit a proposal under section 230 of the Companies Act, 2013. When we view the continuous efforts of Mr. Rakesh Kumar Agarwal in seeking to ‘takeover’ the corporate debtor through various stratagems, and also the finding that he is in ‘collusion’ or acting in concert with the erstwhile management of the corporate debtor, the motive or intention in putting forward a useless scheme of compromise and arrangement in respect of the corporate debtor becomes seriously doubtful. The observation of Hon’ble Supreme Court regarding ‘backdoor entry’ in the corporate debtor by the erstwhile management then appears to be a very distinct, something that we should not disregard. In this background, the judgment of this tribunal in the



matter of **Y. Shivram Prasad (supra)** should also be viewed, so that following such a judgment should not lead to undesirable consequences as are pointed out in the **Arun Kumar Jagatramka Judgment (supra)** of Hon'ble Supreme Court.

43. The Learned Counsel for Appellant has also cited the judgment of this Tribunal in the matter of **Punjab National Bank vs. EVA Agro Feeds Pvt. Ltd. & Anr. [CA(AT)(INS.) No. 757 of 2021]**, wherein it is held that “the successful bidder in the auction sale does not acquire any vested right in law to enforce the auction.” We are conscious of the fact that the issue in this appeal is not about any right of the successful bidder, but where the Adjudicating Authority has considered all the related facts and circumstances concerning the request of the Appellant in proposing a scheme of compromise and arrangement, and thereafter passed an order which balances the liquidation process with the need to avoid liquidation of the corporate debtor. This judgment, therefore, does not support the case of the Appellant.

44. The Senior Learned Counsel for Respondent No. 2 has adverted to the judgment of the Hon'ble Supreme Court in the matter of **Ebix Singapore (P) Ltd. v. Educomp Solutions Ltd. [(CoC), (2022) 2 SCC 401]**, wherein it is held that the “if the CIRP is not completed within the prescribed timeline, the corporate debtor is sent into



liquidation.....We cannot afford to be swayed by abstract conceptions of equity and ‘contractual freedom’ of the parties.” We note that the Adjudicating Authority in the present case has struck a fine balance between the right of the Appellant in proposing the scheme for compromise and arrangement and the timely and successful completion of the liquidation process of the corporate debtor, a move that would be in accordance with the ruling in the **Ebix Singapore judgment (supra)**.

45. In view of the above-noted detailed discussion, it is clearly established that the Adjudicating Authority provided reasonable and sufficient opportunity to the Appellant to submit a credible scheme of compromise and arrangement, and the fact that the scheme so presented by the Appellant was prima-facie found to inflate the total payments by provisioning payments to creditors who are either related to the corporate debtor or for such creditors who had not filed legitimate claims in the liquidation process and thus, the proposed payments were in effect not of greater value than the amount being offered by the successful bidder in the e-auction.

46. We, therefore, hold the clear opinion that the Adjudicating Authority has not committed any error in disposing of the IA 154/2022 by the



Impugned Order allowing the Liquidator to proceed with the e-auction and not allowing any more time for consideration of the scheme proposed under section 230 of the Companies Act, 2013. In view of this inescapable conclusion that the Adjudicating Authority has not erred in passing the Impugned Order, the appeal is dismissed, and is accordingly disposed of.

[Emphasis Supplied]

.....”

5. Similar Arguments raised in the I.A. filed by the set of home buyers before the Hon’ble Supreme Court in IA No. 26569 of 2023 and I.A No. 26573 of 2023 are enumerated below:-

1. *The Applicants are painfully aggrieved by the deliberate failure of the Resolution process qua the Corporate Debtor and the initiation of liquidation proceedings against the Corporate Debtor whereby, the Liquidator/ Respondent herein unilaterally decided to auction the assets and dissolve the Corporate Debtor despite the same being a going concern thereby violating the salutary purpose of the Insolvency and Bankruptcy Code, 2016 i.e. to revive a going concern, which in present case could have been a successful resolution plan or a consideration of a bona-fide scheme under section 230 of the Companies Act, 2013.*



2. *Subsequently, the e-auction initiated on 01.06.2022 carried out at the behest of the Liquidator/Respondent was not performed in an ethical or transparent manner, to the extent that vide IA 2251/2022 before the Hon'ble NCLT, M/s, AKJ Real Tech Pvt. Ltd. was the only successful bidder in the auction carried forth by the Respondent herein. In this regard, the Liquidator has accepted an amount of Rs. 7.45. However, it is noteworthy that the **present market value of the asset is about 12-15 crores** and the same has been reiterated as well as offered by the Petitioner herein who was willing to pay an amount of Rs. 11.48 crores. Hence, the entire auction process is mala-fide and a colourable exercise of power & is liable to be set aside on this factum alone.*
3. *Furthermore, the Liquidator/Respondent violated the settled procedure as enshrined under IBBI (Liquidation Process) Regulations, 2016 and conducted the entire resolution as well as the e-auction process in a highly prejudicial and biased manner insofar as the Liquidator itself was a related party to the Corporate Debtor which is demonstrable from a bare reading of the details of the data available in the public domain.*
4. *More-so, it is further submitted that the List of Creditors was not uploaded on the IBBI website by Respondent No.1/Liquidator till the appeal by*



Appellant was pending before Hon'ble NCLAT, which is clear contravention of IBBI Circular No. IBBI/LIQ/40/2021 dated 29 March 2021, which was further modified in Nov. 2021, accordingly in pursuance of clause (d) of sub-regulation (5) of regulation 31 of the IBBI (Liquidation Process) Regulations, 2016 (Liquidation Process Regulations) requiring the liquidator to file list of stakeholders on the electronic platform of the Board for dissemination on its website directing the liquidators to file the list of stakeholders and modification thereof, in the stipulated format, on the electronic platform, www.ibbi.gov.in. However, it is pertinent to mention here that the Liquidator who had filed the List of Creditors in other Liquidation matters, intentionally did not file the same in this matter only which demonstrates malafide intentions on the part of the respondent no.1/Liquidator. In this regard it is clear that the conduct of the Respondent Liquidator is ex-facie suspicious and in gross violation of the provisions of the law.

5. It is pertinent to mention that on 30.09.2020 the Liquidator/Respondent and his associate-Chanchal Yadav were taken charge as Directors in "**Silvertoan Papers Limited**" run by Mr. Prasoan Agarwal who is the son of Mr. Surender Agarwal (Ex-director of Corporate Debtor). It is noteworthy that the said period when the Liquidator/Respondent took the position as



the Director in “Silvertoan Papers Limited” was during the CIRP process while he was already serving as IRP/RP with the Corporate Debtor. The said action is complete contravention of Regulation 3(1) of the IBBI (Insolvency Resolution Process for Corporate Regulation) Regulation, 2016 which prohibits an IP from being appointed as a Resolution Professional of a corporate debtor if he is not independent of the Corporate Debtor. The relevant para of Regulation 3(1) of the IBBI (Insolvency Resolution Process for Corporate Persons) Regulations, 2016 is reproduced herein:

*In view of the same, it is humbly submitted that the Liquidator/Respondent did not disclose any of such facts at the time of his appointment. Copy of the MCA data highlighting the Directorship Details of the Respondent herein is annexed herewith as **Annexure A-1**. Copy of the MCA data of Silvertoan Papers Limited is annexed herewith as **Annexure A-2**.*

*It is essential to mention that as per the information available on the IBBI web portal, the total **admitted debt on Corporate Debtor is Rs. 10,68,59,838/-** (Rupees Ten Crore Sixty Eight lakhs Fifty Nine Thousand Eight Hundred Thirty-Eight only) and the amount to be received through suspicious auction process is Rs. 7.45 Cr. It is evident from the figures that there is a huge gap of more than 3 Cr. Between*



the auction amount and the total admitted debt. In this regard, proposed in the bid by M/s AKJ Real Tech Pvt. Ltd. (the only successful bidder) are against the mandate of IBC Code.

In view of the above, it is humbly submitted that the market value of the said land of the Corporate Debtor has an area of 3700 sq. Mtr. has far more market value than the amount proposed in the bid by M/s AKJ Real Tech (the only successful bidder). In this regard, the fresh auction qua the assets of the Corporate Debtor must be conducted in the interest of homebuyers and the other creditors of the Corporate Debtor.

PRAYER

- A. Allow the present Application and issue appropriate order(s)/ direction(s) for a fresh auction qua the assets of the Corporate Debtor and/ or;*
- B. Allow the present Application and issue appropriate order(s)/ direction(s) for the proper resolution and revival of the Corporate Debtor in terms of the Insolvency and Bankruptcy Code, 2016 and/ or*
- C. Pass such other and further orders as this Hon'ble Court may deem fit and proper in the facts and circumstances of the case.*



6. After taking into consideration the aforesaid submissions the Hon'ble Supreme Court dismissed the application and held as under:-

"I.A. (Dy.) No.27202/2023 and I.A. (Dy.) No. 27204/2023 Applications are taken on board.

Learned counsel for the applicant urges that he did not participated in the auction because somehow he missed out on the auction but he is willing to pay more. There is hardly a reason for the applicant to intervene.

Applications stand dismissed.

I.A. No.26569/2023 and I.A. No. 26573/2023

These applications are by the home buyers who claim that the process is carried out in a hurry therefore the actual price is not being realized.

Once the process is followed, such kind of endeavours will only prolong the matter and go contrary to the very objective of the Insolvency and Bankruptcy Code, 2016 (IBC).

Applications stand dismissed.

Learned counsel for the appellant states that the appellant has not been able to raise the amount of Rs.12.48 crores but has got a draft of Rs.3,00,00,000/-. Despite this we have heard learned counsel for the appellant. The bottom line is that 12.48 crores haven not been brought as assured on the last date.

The civil appeal stands dismissed accordingly."



FINDINGS AND ORDER

7. We have considered the submissions made before us by the Ld. Counsels. We are of the considered view that the order for allowing the liquidation was passed and the subsequent process of the same was done by this Adjudicating Authority after appreciation of facts presented before it.

The issue raised in the instant application has been thoroughly examined by the Hon'ble NCLAT and the Hon'ble Supreme Court. The Hon'ble NCLAT vide order dated 06.12.2022 exclusively dealt with the issue of submission of scheme of compromise and arrangement along with the claim of the home buyers and the prayer for accepting the scheme of compromise and arrangement as well as for re-auction was rejected.

8. Some homebuyers have also earlier filed application before the Hon'ble Supreme Court for issuing appropriate order for a fresh auction qua the assets of the Corporate Debtor. However, the Hon'ble Supreme Court has dismissed their application vide order dated 07.02.2023 as discussed in para no.6 of this order.

9. In ***Jayashree Mohan Erstwhile Director of Corporate Debtor Vs. Pathukasahasram Raghunathan Raman***



Liquidator M/s. RA-NI Precast Pvt. Ltd (2022) ibclaw.in

848 NCLT it has been observed by the Hon'ble NCLT, Chennai Bench that there is no provision under IBC 2016 to come out of the liquidation process once a liquidation is ordered, except by way of a Scheme under Section 230 of the Companies Act, 2013 or by Sale as a going concern and the provisions of IBC never envisaged for termination of liquidation process and as such the prayer sought by the Applicant transcends beyond the scope of IBC.

10. The Hon'ble Supreme Court has categorically held that *these applications are by the home buyers who claim that the process is carried out in a hurry therefore the actual price is not being realized. Once the process is followed, such kind of endeavours will only prolong the matter and go contrary to the very objective of the Insolvency and Bankruptcy Code, 2016 (IBC).*

11. Thus, in view of the reasons stated supra and also guided by the Hon'ble Supreme Court, the present Application, also filed by some of the homebuyers as being applicants making similar prayer for re-auction is not sustainable and liable to be dismissed and accordingly stands dismissed. The allegation regarding the liquidator/Respondent being related party to the



Corporate Debtor and hence, not being eligible to be appointed as liquidator in this case, has already been dealt with in the order dated 21.09.203 passed by this tribunal in I.A No. 177 of 2023 and all these allegations have not been found correct and hence rejected.

12. I.A 226 of 2023 stands dismissed. Ordered Accordingly.

-Sd-

**(Ashish Verma)
Member (Technical)**

-Sd-

**(Praveen Gupta)
Member (Judicial)**

Ankita Sharma
(LRA)