

NATIONAL COMPANY LAW APPELLATE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI

Comp. App. (AT) (Ins) No. 884 of 2025

IN THE MATTER OF:

Vishwajeet Jhavar

...Appellant(s)

Versus

Jay Nihalani & Ors.

...Respondent(s)

Present:

For Appellant : Mr. Arun Kathpalia, Sr. Advocate with Mr. Dhaval Deshpande, Mr. Amir Arsiwala, Advocates.

For Respondents : Mr. Chaitanya Nikte, Mr. Prashant Patil, Ms. Kaanchi Ahuja, Advocates for R-1-12.
Mr. Ayush J Rajani, Advocate for R-13/IRP.

ORDER
(Hybrid Mode)

09.07.2025: This appeal is against the order dated 13.06.2025 passed by the National Company Law Tribunal, Mumbai Bench-VI in CP (IB) No. 4320/MB/2019 by which application filed under Section 7 of the Code by Financial Creditors/Homebuyers has been admitted.

2. On 23.06.2025, the following order was passed by this court:

“Heard Ld. Senior Counsel for the Appellant, as well as Ld. Counsel representing the Homebuyers i.e. Respondents no. 1 to 12 as well as Learned Counsel appearing for the IRP. Submissions have been made by learned counsel for the Appellant to the tune that the settlement between the parties has taken place and the terms of the settlement has also been reduced in writing, however, the signatures of the Homebuyers/Respondents No. 1 to 12 could not be obtained, as they are living at different places. It is further submitted that Respondents No. 1 to 12 Respondents/Homebuyers have consented to the terms of settlement through E-mail sent by them. This submission made by the Learned Counsel for the Appellant has also been accepted by Ld. Counsel representing the Homebuyers/Respondents No. 1 to 12.

*Keeping in view the fact that submissions made by Learned Counsel for the Appellant have been accepted by Ld. Counsel for the Respondent No. 1 to 12, let this case be listed on **25.06.2025**, on the top of the board, under the same caption.*

In the meantime, Ld. Counsel for the parties may bring on record all the E-mails sent by the Homebuyers i.e. Respondent No. 1 to 12, through an affidavit and any other document, in support of their contention”.

3. On 25.06.2025, the following order was passed:

“Heard Mr. Arun Kathpalia, Learned Senior Counsel representing the Appellant, Ms. Kanchi Ahuja as well as Shri Chaitanya Nikte Learned Counsel appearing for Respondents No. 1 to 12 (Allottees/Homebuyers) as well as Mr. Ayush Rajani, who is present for the IRP.

Ld. Counsel for the Appellant has taken us through various documents including the copy of settlement agreement with one of the Respondents/Allottees as well as various emails which have been sent by the other Respondent/Allottees allegedly accepting and acknowledging the terms of the settlement. Learned Counsel for the Respondent No. 1 to 12 have acknowledged that the settlement has arrived between the parties.

Keeping in view all the facts and circumstances of the case we are of the view that a better affidavit must be placed on record. However, having regard to the apprehension shown by Learned Senior Counsel that in the meantime CoC may be constituted, we provide that a duly signed settlement which is stated to have taken place between the parties be brought on record with a better affidavit well before the next date of listing.

*List on **09.07.2025**. In the meantime, the IRP may collate the claims but CoC shall not be constituted, till the next dated of listing”.*

4. Counsel appearing on behalf of the appellant has filed an affidavit of Mr. Vishwajeet Jhavar dated 08.07.2025 in court today along with copies of the settlement as Annexure A-1 and 2 (Colly).

5. Counsel for the Homebuyer has accepted the settlement and submitted that Form FA is signed for filing the application under Regulation 30A of the Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) Regulations, 2016 of the Code before the Ld. Tribunal.

6. Counsel appearing on behalf of the appellant has submitted that the present appeal has thus become infructuous as the parties would now pursue the aforesaid application filed under Regulation 30A.

7. He has prayed that the IRP in the meantime may be directed not to take any further steps in terms of the CIRP which otherwise affect the rights of the parties to the settlement.

8. We order accordingly.

9. Counsel for the appellant has further submitted that the Tribunal may be directed to decide the application in respect of settlement as early as possible. We direct the Ld. Tribunal to decide the said application expeditiously. The appeal is accordingly disposed of as infructuous. No Costs. IA's if any pending are closed.

[Justice Rakesh Kumar Jain]
Member (Judicial)

[Justice Mohammad Faiz Alam Khan]
Member (Judicial)

[Naresh Salecha]
Member (Technical)

sr/rr