

**NATIONAL COMPANY LAW APPELLATE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI**

**Company Appeal (AT) (Insolvency) No.1396 of 2022
& I.A. No. 4350 of 2022**

IN THE MATTER OF:

**Flat Buyer Welfare Association,
Blue Solitaire, Tower C & Ors.**

...Appellants

Versus

Dhingra Jardine Infrastructure Pvt. Ltd. & Ors.

...Respondents

Present:

For Appellants: Mr. Rakesh Kumar, Mr. Ankit Sharma, Mr. Lav Dhawan and Mr. Rohit Mahajant, Advocates.

For Respondents: Mr. R. K. Gupta, Mr. Abhinav Aggarwal, Advocates with Mr. Gautam Singhal, RP in person.

Mr. Apporv Khator, Advocate for Impleadment Applicant.

O R D E R

24.11.2022: **I.A. No. 4350 of 2022:** There is 13 days delay in filing the Appeal. Learned counsel for the Appellant submits that the Appellant being homebuyer Association time was taken in collecting all relevant materials. Cause shown sufficient delay of 13 days in filing the Appeal is condoned. I.A. No. 4350 of 2022 is allowed.

Learned counsel for the Appellant submits that by the impugned order dated 16.09.2022 the Adjudicating Authority has admitted the CIRP on an application under Section 9 filed by an Operational Creditor. The Operational Creditor was claiming his outstanding dues from the Corporate Debtor pertaining to construction in the project. It is submitted that the project consisted six towers and the Appellants are homebuyer associations of four

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towers who have already been given the possession of the towers by HRERA order dated 15.03.2022 and construction of their towers has substantially been completed. It is submitted that before the Adjudicating Authority the Corporate Debtor did not appear and did not bring in the notice of the Adjudicating Authority that an order has been passed by HRERA on 15.03.2022 and in ignorance of those orders, CIRP has been admitted.

Learned counsel appearing for the homebuyer association of one of the tower namely 'Gloria Welfare Association' submits that 'Gloria Welfare Association' is a welfare association of one of the tower out of six, which may be allowed to be impleaded and intervene in the present appeal. Liberty is given to the 'Gloria Welfare Association' for impleadment and intervention in the appeal. Learned counsel for 'Gloria Welfare Association' submits that the CIRP order should be allowed to continue since the construction in the project related to their tower is not more than 65% as on date.

Learned counsel for the IRP submits that CoC meeting have been conducted and Form G has been issued.

From the above facts, it appears that it was not brought in the notice of the Adjudicating Authority the subsequent developments including orders passed by the HRERA on 15.03.2022 and the Corporate Debtor deliberately choose to remain absent from the proceedings so that relevant facts could not be brought before the Adjudicating Authority. We are satisfied that the ends

of justice be served in issuing notice to the Respondents and further directing that order dated 16.09.2022 be not implemented any further.

Respondents may file reply within three weeks. Rejoinder be filed within two weeks thereafter.

List this Appeal on **06.01.2023**.

[Justice Ashok Bhushan]
Chairperson

[Dr. Alok Srivastava]
Member (Technical)

[Barun Mitra]
Member (Technical)

Archana/nn