



**IN THE NATIONAL COMPANY LAW TRIBUNAL
DIVISION BENCH, COURT NO. I
KOLKATA**

Company Petition (IB) No. 85/KB/2026

***An Application under Section 7 of the Insolvency and Bankruptcy
Code, 2016, read with Rule 4 of the Insolvency and Bankruptcy
(Application to the Adjudicating Authority) Rules, 2016.***

IN THE MATTER OF:

Kotak Mahindra Bank Limited

... Financial Creditor/ Applicant.

Versus

Simaaya Ensembles Private Limited

... Corporate Debtor/ Respondent.

Date of Pronouncement: 18.09.2026.

Coram:

SMT. BIDISHA BANERJEE, MEMBER (JUDICIAL)

MS. REKHA KANTILAL SHAH, MEMBER (TECHNICAL)

Appearance:

Mr. Shiv Ratan Kakrania, Adv.

] For the Financial Creditor

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Mr. Tanuj Kakrania, Adv.]

Ms. Surabhi Mehta, Adv.]

ORDER

PER BIDISHA BANERJEE, MEMBER (JUDICIAL):

1. The Court congregated through hybrid mode.
2. The Learned Counsels for both the parties were heard at length.

3. Factual matrix:

The instant company petition has been filed under Section 7 of the Insolvency and Bankruptcy Code, for brevity I&B Code, read with Rule 4 of the Insolvency and Bankruptcy (Application to the Adjudicating Authority) Rules, 2016, by **“Kotak Mahindra Bank Limited”**, hereinafter referred to as **“Financial Creditor”/ “Applicant”** against **“Simaaya Ensembles Private Limited”**, hereinafter referred to as **“Corporate Debtor”/ “Respondent”** seeking initiation of Corporate Insolvency Resolution Process (for brevity “CIRP”) in respect of the Corporate Debtor due to a default in repayment of a financial debt amounting to Rs. 7,47,10,663.45/-.

4. Submissions of the Applicant:

- 4.1. It is submitted that the Corporate Debtor was the Corporate Guarantor in respect of the credit facilities availed of by the Principal Borrower, i.e., Alipore Condominiums & Investments Private Limited (hereinafter referred to as ACIPL/ the Principal Borrower (PB)).

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- 4.2. The Principal Borrower approached the erstwhile ING Vysya Bank Ltd. (now amalgamated with Kotak Mahindra Bank Ltd.) for availing financial facilities and executed various loan documents on or about June, 2013.
- 4.3. The Financial Creditor advanced the financial facilities under sanction letter dated 29.06.2013 (hereinafter referred to as 'Loan I') for LAP facility for a loan amount of Rs. 5,30,00,000/-.
- 4.4. The PB i.e., ACIPL, Mr. Mayank Agarwal, Mr. Rachit Agarwal and the Corporate Debtor had entered into several facility and security documents in favour of the Financial Creditor to secure the loan and its due repayment.
- 4.5. The ING Vysya Bank Ltd merged with the FC KMB Ltd. in November, 2014, and the FC stepped into the shoes of ING Vysya Bank and the entire loan portfolio of ING Vysya Bank including the present LAP facility was transferred in the books of the FC with all the outstanding amount and the underlying securities.
- 4.6. The FC again advanced to the PB, ACIPL another LAP facility for Rs. 2,50,00,000/- vide sanction letter dated 30.03.2017 (hereinafter referred to as 'Loan-II').
- 4.7. The PB i.e., ACIPL, Mr. Mayank Agarwal, Mr. Rachit Agarwal and the Corporate Debtor submitted various loan and security documents in favour of the FC to secure the above loan facilities. The list of documents submitted are as follows:

- i. Demand Promissory Note dated 30.03.2017.

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- ii. Home Equity Loan Agreement dated 30.03.2017
 - iii. Guarantee Deed executed by Mr. Mayank Agarwal dated 30.03.2017
 - iv. Guarantee Deed executed by Mr. Rachit Agarwal dated 30.03.2017
 - v. Guarantee Deed executed by Simaaya Ensembles Pvt. Ltd. dated 30.03.2017
 - vi. Memorandum of Equitable Mortgage by Constructive Delivery dated 30.03.2017
 - vii. Irrevocable Power of Attorney dated 30.03.2017 executed by ACIPL in favour of the FC
 - viii. Declaration cum indemnity executed by ACIPL dated 30.03.2017
- 4.8. The borrower created successive equitable mortgage by deposit of title deeds of the said property to secure the repayment of the aforesaid credit facilities and the said loan was also secured by the Guarantees of the present Corporate Debtor along with Mr. Mayank Agarwal and Mr. Rachit Agarwal.
- 4.9. The FC again advanced to the PB, ACIPL another LAP facility for Rs. 5,50,00,000/- vide sanction letter dated 27.05.2019 (hereinafter referred to as 'Loan-III') which was duly acknowledged by the Personal Guarantor along with the Corporate Debtor.
- 4.10. The PB executed the loan and security documents to secure the repayment of the credit facilities pursuant to the sanction letter dated

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27.05.2019. The particulars of documents executed by the Defendants are as follows:

- i. Home Equity Loan Agreement dated 28.05.2019 for Rs. 5,50,00,0000/- executed between the Financial Creditor and ACIPL
- ii. Demand Promissory Note dated 29.05.2019
- iii. Guarantee Deed dated 28.05.2019 executed by Mr. Mayank Agarwal
- iv. Guarantee Deed dated 28.05.2019 executed by Mr. Rachit Agarwal
- v. Guarantee Deed dated 28.05.2019 executed by Corporate Debtor, Simaaya Ensembles Private Limited
- vi. Memorandum of Equitable Mortgage by Constructive Delivery dated 29.05.2019

4.11. The Principal Borrower created successive equitable mortgages by deposit of title deeds of the said property to secure repayment of the aforesaid credit facilities and the said Loan was also secured by the Guarantees of the present Corporate Debtor, along with Mr. Mayank Agarwal and Mr. Rachit Agarwal.

4.12. The Ministry of Finance, Government of India announced an Emergency Credit Line Guarantee Scheme ("ECLGS") in or about June, 2020, as a part of the Comprehensive package to aid eligible Business Enterprise/ Micro, Small and Medium Enterprise (MSMEs) Borrower, including

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interest PMMY Borrowers, in view of the economic distress caused by the COVID-19 pandemic.

4.13. The Financial Creditor lent and advanced additional financial facilities at the Principal Borrower's request in the form of Working Capital Term Loan ("WCTL") by way of Guaranteed Emergency Credit Line ("GECL"), under the said ECLGS scheme of National Credit Guarantee Trustee Company Ltd. ("NCGTC") under Sanction Letter dated 23th June 2020 (hereinafter referred to as 'Loan IV') for an amount of Rs. 2,20,22,719/-

4.14. The ACIPL and its PG entered into several facility and security documents with the FC to secure the Loan IV. The particulars of documents executed by the Defendants are as follows:

- i. Term Loan Agreement dated 29.06.2020 executed by ACIPL for the ECLGS loan facilities
- ii. Memorandum of Entry by Constructive Delivery dated 07.08.2020

4.15. The Financial Creditor restructured the three LAP accounts at the request of the PB in or about 2021, vide sanction letters, all dated 25th September, 2021, duly acknowledged by the Corporate Debtor and the Personal Guarantors. The details are as follows:

Sanction Letter in reference	Existing Loan	Restructured Loan
LP22837933/18544189	5,30,00,000	5,10,51,000
LP22826949/1853132	2,50,00,000	3,39,70,000

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LP22836987/1853778	2,20,22,719	1,86,04,000
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4.16. The particulars of the loan and security documents executed in favour of the sanction letters are as follows:

- i. Home Equity Loan Agreement dated 28.09.2021 executed between the Financial Creditor and the Principal Borrower for a sum of Rs. 1,86,04,000/-
- ii. Copy of Memorandum of Entry dated 28.09.2021 for a sum of Rs. 1,86,04,000/- and Demand Promissory Note dated 28.09.2021
- iii. Guarantee executed by the Corporate Debtor and deed dated 28.09.2021 the Financial Creditor for a sum of Rs. 1,86,04,000/-
- iv. Deed of Confirmation executed by both the Personal Guarantors and the Corporate Debtor for the loan facility of Rs. 1,86,04,000/-
- v. Home Equity Loan Agreement dated 28.09.2021 executed between the Financial Creditor and the Principal Borrower for a sum of Rs. 3,39,70,000/-
- vi. Demand Promissory Note dated 25.09.2021 in favour of the Financial Creditor for a sum of Rs. 3,39,70,000/-
- vii. Memorandum of Entry dated 28.09.2021 for a sum of Rs. 3,39,70,000/-
- viii. Guarantee deed dated 27.09.2021 executed by the Corporate Debtor and the Financial Creditor for a sum of Rs. 3,39,70,000/-

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- ix. Deed of Confirmation executed by both the Personal Guarantors and the Corporate Debtor for the loan facility of Rs. 3,39,70,000/-
- x. Home Equity Loan Agreement dated 25.09.2021 executed between the Financial Creditor and the Principal Borrower for a sum of Rs. 5,10,51,000/-
- xi. Demand Promissory Note dated 25.09.2021 in favour of the Financial Creditor for a sum of Rs. 5,10,51,000/-
- xii. Memorandum of Entry dated 28.09.2021 for a sum of Rs. 5,10,51,000/-
- xiii. Guarantee deed dated 28.09.2021 executed by the Corporate Debtor and the Financial Creditor for a sum of Rs. 5,10,51,000/-
- xiv. Deed of Confirmation executed by both the Personal Guarantors and the Corporate Guarantor for the loan facility of Rs. 5,10,51,000/-

4.17. The facilities were further renewed/ modified vide sanction letter dated 28th September, 2021 on request of the Principal Borrower regarding moratorium request on the existing GECL Loan under ECGLS.

4.18. Further the CD executed fresh Guarantee Deeds dated 27th and 28th September, 2021, thereby reaffirming its continuing liability for the restructured facilities.

4.19. It is further contended that the PB, PG and the CD were contractually bound to repay the financial facilities strictly in accordance with the respective sanction letters and to pay interest, EMIs and other charges at the agreed rates and interval.

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- 4.20. Further the parties deliberately failed and neglected to adhere to the repayment schedule and defaulted in servicing the debt, pursuant to which the loan accounts were classified as NPA on 24th December, 2023 in the books of the FC in accordance with the prudential norms and guidelines issued by the RBI.
- 4.21. The Financial Creditor issued a Recall-cum-Invocation of Guarantee Notice dated 6th March, 2024 to the PB, PG and the present CD invoking the guarantee and called upon it to discharge the guaranteed liability within 7 days of receipt thereof.
- 4.22. Further the FC issued notice under Section 13(2) of SARFAESI Act, 2002 on 12.04.2024 calling upon the defendants to pay outstanding amount towards the loan within a period of 60 days from the date of the notice. Thereafter the FC initiated proceedings under Section 19 of the RDB Act, 1993 before the DRT-I, Kolkata, against the PB and its guarantors including the CD, which is pending for adjudication.
- 4.23. The PB and its Guarantors approached the FC with a proposal for standardization of the loan accounts from NPA through sale of the part portion of the mortgage property, whereby the FC agreed to and issued conditional permission dated 13.12.2024 granting permission to release the part portion of the property and for standardization of the loan accounts. Therefore the Loan Account Nos. LAP18423140, LAP18423750 and LAP18423431 were revived from the NPA classification pursuant to the restructuring facility and GECL facility were closed from the sale proceeds of part portion of the property.

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- 4.24. The FC issued an email dated 13.06.2025 addressed to the PB drawing attention of the continuous failure to comply with the pending conditions stipulated in the Conditional Permission Letter dated 13.12.2024, to which the PB admitted their continuing financial difficulties and delays in fulfilling its repayment and documentation obligations, and also expressed its intent to liquidate dues from the proposed sale of the fifth floor of the mortgaged property and sought further time to conclude the said transaction. Further the registered mortgage in respect of the remaining portion of the property had not been executed, and promised to make token payments of Rs. 6 lakhs and Rs. 15 lakhs in subsequent months as a gesture of good faith.
- 4.25. The PB and guarantors failed to honour the repayment obligations under the restructured schedule, and the accounts again became irregular and remained overdue for more than 90 days. Thereafter, the Bank classified the said loan accounts as NPA on 8th September, 2025 as per the RBI prudential norms.
- 4.26. The FC issued a statutory demand notice under Section 13(2) of the SARFAESI Act, 2002, dated 26th September, 2025, addressed inter alia to the Borrower, PG and the present CD vide email and registered post, called upon the addressees to pay the entire outstanding aggregate amount of Rs. 7,27,47,079.23/- (as on 25.09.2025) with further interest @8% p.a. from 26.09.2025 till realisation. The CD failed and neglected to make any payment or proposal for settlement.

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- 4.27. The CD's liability under the aforesaid guarantee deeds stands invoked and remains unsatisfied, and the entire debt had become due and payable.
- 4.28. Ld. Counsel contended that the said sum together with continuing interest and penal charges constitutes a financial debt within the meaning of Section 5(8) of the I&B Code, 2016, which remains wholly unpaid.
- 4.29. Further the PB has made certain payments from time to time after the default, and the last payment was received on 07.08.2025 and 08.08.2025 for an amount of Rs. 13,97,000/-. The FC has received Rs. 6,72,41,634.10/- in aggregate against all the LAP loan advanced to the PB.
- 4.30. Further the audited Balance Sheet of the PB for the FY 2023 and 2024 each acknowledged the subsisting liability.
- 4.31. It is submitted that the Financial Debt is undisputed and the same has not been paid despite written demand for repayment being issued by the FC.
- 4.32. The total outstanding amount due and payable by the PB along with the guarantors including the CD, to the FC amounts to Rs. 7,47,10,663.45/- as on 14.01.2026, including accrued interest and penalty.

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5. Submissions of the Respondent:

5.1. It is observed that no reply affidavit is on record and the CD was set ex parte. However, the learned Counsel for the Respondent was permitted to file and thus he has filed the written notes of argument pursuant to the order dated 10.08.2026.

5.2. Written Notes of Arguments:

By way of written notes of arguments, the CD has submitted as under:

- i. It never availed, received, or utilized any portion of the credit facilities granted by the FC for its own operational or commercial purposes. Further the principal credit facilities, comprising LAP facilities and Working Capital Term Loans under the ECLGS were extended exclusively to an independent Corporate entity, namely Alipore Condominiums & Investments Private Limited (Principal Borrower).
- ii. The FC sanctioned credit facilities to the PB under sanction letters dated 29th June, 2013, 30th March, 2017 and 27th May, 2019. The Loan facilities were subsequently restructured under the RBI Framework vide sanction letters dated 25th September, 2021 across three accounts (LAP18423750 for Rs. 5,10,51,000/-, LAP18423140 for Rs. 3,39,70,000/-, and LAP18423431 for Rs. 1,86,04,000/-) alongside a Working Capital Term Loan under GECL of Rs. 2,20,22,719/-.
- iii. Further the FC issued a Conditional Permission Letter dated 13th December, 2024, granting permission to release and sell a part portion of the primary mortgaged property for a consideration of Rs.

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5,70,00,000/- . The GECL loan was completely closed upon receipt and appropriation of the said sale proceeds, and the remaining restructured LAP accounts were revived from NPA classification.

- iv. The partial release of security following the payment of Rs. 5.70 crores in December, 2024 was never communicated by the FC to the CD. Further that the appropriation of this payout was conducted arbitrarily and in blatant violation of the Operational Guidelines and FAQs pertaining to the ECLGS, as the ECLGS exposure was 100% secured by the Central Government and held only a second charge. The Operational Guidelines mandate that any recovery from the borrower must first be allocated to accounts backed by securities where the FC holds a first charge.
- v. It is stated that the FC deliberately withheld vital communications from the CD, including the No Dues Certificate and letters dated 13.12.2024 and 31.12.2024 to conceal its wrongful appropriation of the funds.
- vi. It is further stated that the PB continued to make payments towards the debt, and the last payments were made on 7th August, 2025 and 8th August, 2025. The FC has already recovered over Rs. 6,72,41,634/- in aggregate against the PB's loan accounts.
- vii. It is submitted that the ongoing disputes between the FC and the PB is already subject to active settlement and compromise proceedings before the Lok Adalat at DRT-I, Kolkata.

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- viii. Further the PB had already submitted a formal composite compromise proposal dated 03.08.2026 for Rs. 7,99,99,000/- along with a commitment/cheque of Rs. 1,00,00,000/- upfront pursuant to the Lok Adalat directions.
- ix. It is stated that the FC is simultaneously seeking admission of the Corporate Guarantor under Section 7 while the settlement process is actively going on.
- x. Further the FC's parallel enforcement measures under SARFAESI Act, 2002 are actively sub-judice before the Ld. DRT-I, Kolkata challenging the Section 14 physical possession order of the Ld. CMM Calcutta dated 09.04.2026.
- xi. Further that the Ld. Presiding Officer, DRT-I, vide Order dated 06.08.2026, reserved orders and directed that the "Bank is directed to wait till pronouncement of order", and that seeking insolvency admission during the subsistence of the said judicial restraint renders the claim unliquidated and premature.
- xii. It is submitted that the FC abruptly and arbitrarily re-classified the loan accounts as NPA on 8th September, 2025 and issued a statutory demand notice dated 26th September, 2025 under Section 13(2) of the SARFAESI Act, 2002, which explicitly withdrew the earlier notice dated 12.04.2024.
- xiii. Further that the Financial Creditor holds a primary, subsisting, and exclusive first mortgage charge over the remaining prime commercial

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- property at 23A, Shakespeare Sarani, Kolkata, whose market value is stated to be vastly in excess of the entire balance claim of the FC.
- xiv. The Financial Creditor had already instituted original recovery proceedings under Section 19 of the Recovery of Debts and Bankruptcy Act, 1993, before DRT-I, Kolkata against the PB and Guarantors, which is pending adjudication.
- xv. It is further submitted that the invocation of the guarantee is premature and legally defective, and that the claimed amount of Rs. 7,47,10,663.45/- includes heavily inflated penal interest, broken-period facility rates, and disputed charges which have not been adjudicated.
- xvi. Ld. Counsel for the Respondent prayed that the Company Petition (IB) No. 85/KB/2026 be dismissed with costs, or, in the alternative, that the Financial Creditor be directed to first exhaust its primary security and pursue its remedies pending before the Debts Recovery Tribunal-I, Kolkata, before seeking the corporate insolvency of the Corporate Debtor.

6. Analysis and Findings:

- 6.1. We have heard the arguments, perused the written arguments put forth by the Learned Counsels for the parties, considered the rival contentions, and gone through the case file carefully, including the pleadings and documents placed on record by the parties. We shall now proceed to deal with the merits of the present petition.

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6.2. At the outset, it is pertinent to note that the scope of enquiry under Section 7 of the Insolvency and Bankruptcy Code, 2016 is limited to ascertaining the existence of a ‘financial debt’ and the occurrence of ‘default’. The solvency of the Corporate Debtor or the feasibility of recovery are not determinative factors at the stage of admission. The relevant extract of Section 7 of the I&B Code, 2016 with newly introduced amendments are as follows:

*“Section 7(4). The Adjudicating Authority shall, within fourteen days of the receipt of the application under sub-section (2), ascertain the **existence of a default** from the records of an information utility or on the basis of other evidence furnished by the financial creditor under sub-section (3)*

Section 7(5). The Adjudicating Authority shall, within fourteen days of the receipt of the application under sub-section (2), by an order—

*(a) **admit the application**, if it is satisfied that **a default has occurred** and the application under sub-section (2) is complete, and there is no disciplinary proceeding pending against the proposed resolution professional; or*

(b) reject the application, if it is satisfied that a default has not occurred or the application under sub-section (2) is incomplete or a disciplinary proceeding is pending against the proposed resolution professional:

.....”

6.3. It is an admitted position that the Corporate Debtor executed unconditional and irrevocable corporate guarantees in favour of the

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Financial Creditor by Guarantee Deeds dated 30.03.2017 and 28.05.2019 (Annexures A-16 and A-25 of the Application), securing the credit facilities sanctioned to the Principal Borrower, ACIPL, and further created a Memorandum of Equitable Mortgage over the property at 23A, Shakespeare Sarani, Kolkata, by way of collateral security

- 6.4. Further it is observed that the said facilities were restructured under the RBI framework vide Sanction Letters dated 25.09.2021, and a part of the mortgaged security was released and sold for Rs. 5,70,00,000/- pursuant to the Conditional Permission Letter dated 13.12.2024.
- 6.5. The restructured accounts were once again classified as Non-Performing Assets on 08.09.2025, followed by a statutory demand notice dated 26.09.2025 under Section 13(2) of the SARFAESI Act, 2002, addressed inter alia to the Corporate Debtor as guarantor.
- 6.6. It is well settled that a guarantee, being a debt disbursed against the consideration for time value of money, falls within the meaning of Section 5(8)(i) of the I&B Code, constitutes a “financial debt”, and a corporate guarantor is a “corporate debtor” *qua* such guaranteed debt.
- 6.7. The liability of a Corporate Guarantor is not extinguished or diminished merely because the guarantor did not itself avail or utilise the underlying credit facility.
- 6.8. The Hon’ble Supreme Court in ***Laxmi Pat Surana v. Union Bank of India & Anr., (2021) 8 SCC 481***, has authoritatively held that the default of the principal borrower constitutes default of the corporate guarantor, and for proceedings under Section 7 of the IBC, the date of

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default remains the date on which the principal borrower first defaulted. The relevant paragraph is reproduced herein under:

43: "... Further, the expression "default" has been defined in Section 3(12) to mean non-payment of "debt" when whole or any part or instalment of the amount of debt has become due and payable and is not paid by the debtor or the corporate debtor, as the case may be. In cases where the corporate person had offered guarantee in respect of loan transaction, the right of the financial creditor to initiate action against such entity being a corporate debtor (corporate guarantor), would get triggered the moment the principal borrower commits default due to non-payment of debt..."

6.9. As regards the pendency of conciliation before the Lok Adalat, DRT-I, Kolkata, in Case No. OA/383/2024, and the composite compromise proposal dated 03.08.2026, it is not in dispute that the said proposal remains a proposal, and no concluded and binding settlement has been placed on record before this Adjudicating Authority.

6.10. The Hon'ble Supreme Court in ***E.S. Krishnamurthy v. Bharath Hi-Tech Builders (P) Ltd., (2022) 3 SCC 161***, has held that the Adjudicating Authority cannot compel a party to settle a dispute, and that once the existence of debt and default is established, the application must be considered on its own merits within the four corners of Section 7, uninfluenced by the pendency of settlement talks.

6.11. As regards the pendency of the SARFAESI proceedings, SA/92/2026 and IA/2520/2026, and the Order dated 06.08.2026 of the Ld. DRT-I

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directing “*Bank is directed to wait till pronouncement of order*”, the said direction, on a plain reading, restrains the Financial Creditor from taking further coercive steps under the SARFAESI Act pending pronouncement of orders in that proceeding. It cannot under any stretch of imagination bind this Adjudicating Authority given the language employed in Section 238 of the I&B Code, and authoritative pronouncements.

6.12. The Hon’ble NCLAT in the matter of ***Pawan Kumar v. Central Bank of India and Ors., (2025) ibclaw.in 37 NCLAT*** held

“It is well settled law that the fact that Financial Creditor has initiated proceedings before the DRT does not preclude them to take remedy under Section 7, which is a special remedy provided under the IBC.”

6.13. As regards the contention that the Financial Creditor holds adequate primary security in the remaining portion of the property at 23A, Shakespeare Sarani, Kolkata, and ought first to be directed to exhaust the same, the sufficiency or otherwise of security available to a financial creditor, and the feasibility of recovery through enforcement of such security, are not relevant considerations at the stage of admission under Section 7 of the Code.

6.14. The scheme of the Code does not contemplate an enquiry into the solvency of the corporate debtor or the adequacy of security as a precondition to admission, once debt and default are established. The

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Adjudicating Authority has very limited discretion in the matter, as reiterated by the Hon'ble Supreme Court in ***M. Suresh Kumar Reddy v. Canara Bank, (2023) 8 SCC 387.***

6.15. As regards the contention that invocation of the guarantee is premature, the guarantee deeds place no condition precedent upon invocation other than default by the Principal Borrower. Subsequent, the loan accounts slipped into NPA on 14.12.2023 whereafter a recall notice cum invocation of guarantee dated 06.03.2024 was issued. A notice under Section 13(2) of the SARFAESI dated 12.04.2024, acknowledgement of the CD of its liability, second time reclassification of accounts as Non-Performing Assets on 08.09.2025, followed by the statutory notice dated 26.09.2025 addressed to the Corporate Debtor as guarantor, sufficiently establishes that the guarantee stood validly and unequivocally invoked, and that default, within the meaning of Section 3(12) of the Code, occurred and continues to subsist.

6.16. The NESL Record of default in Form D also shows that the default amount of the Corporate Debtor towards the Financial Creditor is Rs. 2,37,92,796.49/-. (Annexure A-60 at page 706 of the Application). The relevant extract are given below for reference:

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NATIONAL E-GOVERNANCE SERVICES LIMITED

**FORM D
RECORD OF DEFAULT(RoD)**

(Issued By information utility under sub- regulation (4) of regulation 21 of the Insolvency and Bankruptcy Board of India (Information Utilities) Regulations, 2017)

This Record of Default is issued to the Financial Creditor M/s KOTAK MAHINDRA BANK LTD in respect of the default of debt as per details given below-

(a) Name of the Submitter:	M/s KOTAK MAHINDRA BANK LTD
(b) Schedule-2 Bank (Y/N):	Y
(c) Name of Corporate Debtor:	M/s ALIPORE CONDOMINIUMS INVESTMENTS PVT L
(d) Unique Debt Identifier Number:	AAACK4409J_LAP18423140
(e) Registered Address:	27BKC, C 27, G Block, Bandra Kurla Complex, Bandra (East), Mumbai
(f) Total Outstanding Amount:	INR 34271542.00
(g) Default Amount:	INR 23792796.49
(h) Submission ID:	6
(i) Date of Default:	08-09-2025
(j) Status of Authentication of Default:	AUTHENTICATED
(k) Authentication Completed on:	26-12-2025 00:06:19
(l) Date of Last Acknowledgement of Debt (AoD):	Not Available

** where dispute is pertaining to non-financial information and financial creditor is schedule II bank, the status of authentication will be recorded as Authenticated*

NeSL is authorized to issue this record of default and has accordingly affixed its digital signature, as per the provisions of the Insolvency and Bankruptcy Code, 2016 read with Insolvency and Bankruptcy Board of India (Information Utilities) Regulations, 2017, Guidelines for Technical Standards for Performance of Core Services and Other Services and the Insolvency and Bankruptcy (Application to Adjudicating Authority) Rules, 2017.

6.17. In view of the aforesaid documentary evidence, this Adjudicating Authority is satisfied that the Financial Creditor has established the existence of a financial debt.

6.18. Once the “debt” and “default” are admitted or established, the petition must be admitted.

6.19. We are fortified in our view with the decisions of Hon’ble Supreme Court which define “Financial Debt” and to initiate Corporate Insolvency Resolution process as under:

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(a) **Anuj Jain, Interim Resolution Professional for Jaypee Infratech Ltd. v. Axis Bank Limited reported in (2020) 8 SCC 401** in para 43:

“the basic elements are that it ought to be a disbursal against the consideration for time value of money.”

(Emphasis added)

(b) **Indus Biotech Private Limited v. Kotak India Venture (Offshore) Fund** reported in (2021) 6 SCC 436: MANU/SC/0231/2021 (para 14) that:

“14. ... in order to trigger an application, there should be in existence four factors: (i) there should be a 'debt' (ii) 'default' should have occurred (iii) debt should be due to 'financial creditor' and (iv) such default which has occurred should be by a 'corporate debtor...”

(Emphasis added)

(c) **Innoventive Industries Ltd. v. ICICI Bank reported in (2018) 1 SCC 407: MANU/SC/1063/2017** has laid down that:

“27. The scheme of the Code is to ensure that when a default takes place, in the sense that a debt becomes due and is not paid, the insolvency resolution process begins. ...”

“28. ... the corporate debtor is entitled to point out that a default has not occurred in the sense that the "debt", which may also include a disputed claim, is not due. A debt may not be due if it is not payable in law or in fact. The moment the adjudicating authority is satisfied that a default has occurred, the application must be admitted unless it is incomplete.”

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“30. On the other hand, as we have seen, in the case of a corporate debtor who commits a default of a financial debt, the adjudicating authority has merely to see the records of the information utility or other evidence produced by the financial creditor to satisfy itself that a default has occurred. It is of no matter that the debt is disputed so long as the debt is "due" i.e., payable unless interdicted by some law or has not yet become due in the sense that it is payable at some future date. It is only when this is proved to the satisfaction of the adjudicating authority that the adjudicating authority may reject an application and not otherwise.”

(Emphasis added)

7. In terms of the foregoing discussion, we **ALLOW** the application bearing **Company Petition (IB) No. 85/KB/2026** filed under **Section 7 of the I&B Code**, and accordingly, we order the initiation of **Corporate Insolvency Resolution Process (CIR Process)** in respect of the Corporate Debtor by the following **Orders**:

i. The Application filed by **Kotak Mahindra Bank Limited (Financial Creditor)**, under Section 7 of the Insolvency & Bankruptcy Code, 2016, is hereby, **ADMITTED** for initiating the **Corporate Insolvency Resolution Process** in respect of **Simaaya Ensembles Private Limited (Corporate Debtor)**.

ii. As a consequence of this Application being admitted in terms of Section 7 of the I&B Code, moratorium as envisaged under the provisions of Section 14(1) of the Code, shall follow in relation to the Respondent/(CD) as per clauses (a) to (d) of Section 14(1) of the

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Code. However, during the pendency of the moratorium period, terms of Section 14(2) to 14(3) of the Code shall come into force.

iii. Moratorium under Section 14 of the Insolvency & Bankruptcy Code, 2016, prohibits the following, as:

(a) the institution of suits or continuation of pending suits or proceedings against the corporate debtor including execution of any judgment, decree or order in any court of law, tribunal, arbitration panel or other authority;

(b) transferring, encumbering, alienating or disposing of by the corporate debtor any of its assets or any legal right or beneficial interest therein;

(c) any action to foreclose, recover or enforce any security interest created by the corporate debtor in respect of its property including any action under the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002;

(d) the recovery of any property by an owner or lessor where such property is occupied by or in the possession of the corporate debtor.

[Explanation.-For the purposes of this sub-section, it is hereby clarified that notwithstanding anything contained in any other law for the time being in force, a license, permit, registration, quota, concession, clearances or a similar grant or right given by the Central Government,

State Government, local authority, sectoral regulator or any other authority constituted under any other law for the time being in force, shall not be suspended or terminated on the grounds of insolvency,

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subject to the condition that there is no default in payment of current dues arising for the use or continuation of the license, permit, registration, quota, concession, clearances or a similar grant or right during the moratorium period;]

- iv. The supply of essential goods or services to the corporate debtor as may be specified shall not be terminated or suspended or interrupted during the moratorium period.
- v. The provisions of sub-section (1) of the Section 14 shall not apply to such transactions as may be notified by the Central Government in consultation with any financial sector regulator.
- vi. The Applicant has proposed the name of AAA Insolvency Professionals LLP, Reg. Address: 64, First Floor, Okhla Estate Phase – III, Near Modi Mill, Okhla Industrial Estate, New Delhi – 110020, IBBI Registration no. IBBI/IPE-0002/IPA-1/2022-23/50001 (Email address: anil@avbassociates.co.in), as the “IRP”. We have perused that there is a written communication and consent of IRP in Form 2. (Annexure A at page 6-8 of the Supplementary Affidavit dated 6th August, 2026 by the Financial Creditor), as per the requirement of Rule 9(l) of the Insolvency and Bankruptcy (Application to Adjudicating Authority) Rules, 2016. There is a declaration made by him that there are no disciplinary proceedings pending against him with the Board or IPA with whom the member is registered. In addition, further necessary disclosures have been made by AAA Insolvency Professionals LLP as per the requirement of the IBBI

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Regulations. Accordingly, he satisfies the requirement of Section 7(3)(b) of the code. Hence, we appoint AAA Insolvency Professionals LLP as the Interim Resolution Professional (IRP) of the Corporate Debtor to carry out the functions as per the I&B Code subject to submission of a valid Authorisation of Assignment in terms of regulation 7A of the Insolvency and Bankruptcy Board of India (Insolvency Professional) Regulations, 2016. The fee payable to IRP or the RP, as the case may be, shall be compliant with such Regulations, Circulars and Directions as may be issued by the Insolvency & Bankruptcy Board of India (IBBI). The IRP shall carry out his functions as contemplated by sections 15, 17, 18, 19, 20, 21 and other provisions of the I&B Code.

vii. In pursuance of Section 13 (2) of the Code, we direct the IRP or the RP, as the case shall cause a public announcement immediately with regard to the admission of this application under Section 7 of the Code and call for the submission of claims under Section 15 of the Code. The public announcement referred to in Clause (b) of sub-section (1) of Section 15 of the Insolvency & Bankruptcy Code, 2016, shall be made immediately. The expression immediately means within three days as clarified by Explanation to Regulation 6 (1) of the IBBI (Insolvency Resolution Process for Corporate Persons) Regulations, 2016.

viii. During the CIR Process period, the management of affairs of the Corporate Debtor shall vest in the IRP or the RP, as the case may be,

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in terms of Section 17 of the I&B Code. Any person who is or has been personnel of the Corporate Debtor or its promoter, or is associated with the management of the Corporate Debtor, or engaged under a contract for service with the Corporate Debtor, shall provide all documents in their possession and furnish all information within their knowledge, and extend all assistance and cooperation to the Interim Resolution Professional as may be required for managing the affairs of the Corporate Debtor or performing the duties conferred upon the Interim Resolution Professional within one week from the date of receipt of this Order, in default of which coercive steps will follow. There shall be no future opportunities in this regard.

- ix. The Interim Resolution Professional is also free to take police assistance to take full charge of the Corporate Debtor, its assets and its documents without any delay, and this Court hereby directs the concerned Police Authorities and/or the Officer-in-Charge of Local Police Station(s) to render all assistance as may be required by the Interim Resolution Professional in this regard.
- x. The IRP or the RP, as the case may be, shall submit to this Adjudicating Authority periodical report with regard to the progress of the CIR Process in respect of the Corporate Debtor.
- xi. The Financial Creditors shall be liable to pay to IRP a sum of Rs. 3,00,000/- (Rupees Three Lakh Only) as payment of his fees as advance, as per Regulation 33(3) of the IBBI (Insolvency Resolution

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Process for Corporate Persons) Regulations, 2016, which amount shall be adjusted at the time of final payment. The expenses relating to the CIRP are subject to the approval of the Committee of Creditors (CoC).

- xii. In terms of sections 7(5) and 7(7) of the Code, the Registry of this Adjudicating Authority is hereby directed to communicate this Order to the Financial Creditor, the Corporate Debtor and the Interim Resolution Professional by Speed Post and through email immediately, and in any case, not later than two days from the date of this Order.
- xiii. Additionally, the Registry of this Adjudicating Authority shall serve a copy of this Order upon the Insolvency and Bankruptcy Board of India (IBBI) for their record and also upon the Registrar of Companies (RoC), to whom the company is registered with, by all available means for updating the Master Data of the Corporate Debtor. The said Registrar of Companies shall send a compliance report in this regard to the Registry of this Court within seven days from the date of receipt of a copy of this order.
- xiv. The Resolution Professional shall conduct CIRP in a time-bound manner as per Regulation 40A of IBBI (Insolvency Resolution Process for Corporate Persons) Regulation, 2016.
- xv. The IRP/RP shall be liable to submit the periodical report including the minutes of the CoC of the Corporate Debtor with regard to the

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progress of the CIR Process in respect of the Corporate Debtor to this
Adjudicating Authority from time to time.

xvi. The order of moratorium shall cease to have effect as per Section
14(4) of the I&B Code.

8. Certified copies of this order, if applied for with the Registry of this
Adjudicating Authority, be supplied to the parties upon compliance with
all requisite formalities.

9. Post the Company Petition on 27/10/2026 for filing the Periodical Progress
Report by the IRP/RP as appointed herein.

REKHA KANTILAL SHAH
MEMBER (TECHNICAL)

BIDISHA BANERJEE
MEMBER (JUDICIAL)

This Order is signed on this, the 18th Day of September, 2026.

Sagar M. (LRA)

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