



SL. No.1

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

Special Bench

Hearing Through: VC and Physical (Hybrid) Mode

**CORAM: SHRI RAJEEV BHARDWAJ, HON'BLE MEMBER (J)
CORAM: SHRI YOGENDRA KUMAR SINGH, HON'BLE MEMBER (T)**

**ATTENDANCE-CUM-ORDER SHEET OF THE HEARING OF NATIONAL COMPANY LAW TRIBUNAL,
HYDERABAD BENCH, HELD ON 07.10.2025 at 12:00 PM**

TRANSFER PETITION NO.	
COMPANY PETITION/APPLICATION NO.	Company Petition IB/120/7/2024
NAME OF THE COMPANY	M/s.Pravista Infra Pvt Ltd
NAME OF THE PETITIONER(S)	Indian Bank
NAME OF THE RESPONDENT(S)	M/s.Pravista Infra Pvt Ltd
UNDER SECTION	7 of IBC

ORDER

Orders pronounced, recorded vide separate sheets. In the result, this Petition is allowed.

Sd/-
MEMBER (T)

Sd/-
MEMBER (J)



NATIONAL COMPANY LAW TRIBUNAL

HYDERABAD BENCH, COURT-II

C.P (IB) No.120/7/HDB/2024

***[Under Section 7 of Insolvency and Bankruptcy Code, 2016 & Rule 4 of
Insolvency and Bankruptcy Board of India (Application to
Adjudicating Authority) Rules, 2016]***

BETWEEN:

M/s. Indian Bank,

Stressed Assets Management Branch,
5-1-679, Surabhi Arcade, Bank Street, Koti,
Hyderabad-500001.

...Petitioner/Financial Creditor

Versus

M/s. Pravista Infra Private Limited

Sy. No. 95/B, Pravista Heights,
Bommakai Gurgammagadda, Karimnagar,
Telangana-505001.

...Respondent/Corporate Debtor

Date of Order: 07.10.2025

Coram:

Hon'ble Shri Rajeev Bhardwaj, Member (Judicial)

Hon'ble Shri Yogendra Kumar Singh, Member (Technical)

Counsels Present

For Petitioner : Mr. Rajashekar Rao Salvaji, Advocate.

For Respondent : Mr. D. Gopala Krishna, Advocate



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[PER: BENCH]

ORDER

1. The present Petition has been filed by Indian Bank (**Financial Creditor/FC**) under Section 7 of the Insolvency and Bankruptcy Code, 2016 (IBC), read with Rule 4 of the Insolvency and Bankruptcy (Application to Adjudicating Authority) Rules, 2016, seeking initiation of the Corporate Insolvency Resolution Process (**CIRP**) against M/s. Pravista Infra Private Limited (**Corporate Debtor/CD**).

2. **Application**
 - (i) The Corporate Debtor availed a Secured Overdraft facility from the Financial Creditor to the tune of Rs. 10,00,00,000/-. The Corporate Debtor subsequently defaulted in repayment of the said facility.

 - (ii) The Financial Creditor approached the Debt Recovery Tribunal (**DRT**), Hyderabad-I by filing O.A. No. 139 of 2021. By order dated 12.04.2022, the DRT decreed the matter in favour of the Financial Creditor and issued Recovery Certificate No. 143 of 2022 on 26.07.2022 for recovery of Rs. 10,82,13,052.22/- together with future interest at 18.80% per annum from the date of order till realization. As per the Statement of Account, the outstanding dues aggregate to Rs. 15,40,98,276.34/-.

 - (iii) The Recovery Certificate records that the decreed amount is secured by mortgage of 13 immovable properties (***schedule of properties is furnished in the Petition at pages 17 to 22***).

 - (iv) FC reported the default of the Corporate Debtor to the National E-Governance Services Limited (**NeSL**) on 29.03.2024. NeSL completed authentication on 14.04.2024 and issued the Record of Default (**RoD**) (***pg. no. 137 of the Petition***), noting the date of default as 01.04.2018 and recording the defaulted amount as Rs. 6,97,45,062/-.

 - (v) Following the Corporate Debtor's failure to fulfill its repayment obligations, the present Petition was filed. The Financial Creditor has proposed appointment of Mr. Kalvakota Venkat Narsinga Rao (Reg. No. IBBI/IPA-001/IP/P-01361/2018-2019/12130) as the Interim Resolution Professional (**IRP**) (***pg. no. 79 to 82 of the Petition***).



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3. Counter

- (i) It is submitted that the Petitioner/Financial Creditor had earlier filed O.A. No. 139 of 2021 before the DRT against the Respondent Company/Corporate Debtor and its Directors. In the said proceedings, the Respondent/Corporate Debtor and its Directors were set ex parte, and the DRT passed an order on 12.04.2022, followed by issuance of a Recovery Certificate on 26.07.2022.
- (ii) The Recovery Officer (**RO**) has been initiating steps for sale of mortgaged properties to recover the outstanding dues. Therefore, the present Petition, filed during pendency of such recovery proceedings, is not maintainable as the true intent of the Financial Creditor is recovery and not initiation of CIRP.
- (iii) Further, on 29.08.2024, the Financial Creditor appeared before the RO, filed service provider details, and sought time on the ground that the Corporate Debtor was exploring a One-Time Settlement (**OTS**). The matter was accordingly posted to 21.11.2024. The Respondent alleges that while OTS negotiations were ongoing, the present Petition was filed, suppressing this material fact.
- (iv) It is further contended that, though the Recovery Certificate covers only five properties belonging to the Corporate Debtor, the Financial Creditor annexed a schedule of 13 properties without producing Encumbrance Certificates or other supporting documents to establish ownership of all such properties.
- (v) The Financial Creditor had also invoked provisions of the SARFAESI Act and issued a sale notice dated 23.05.2023 in respect of the first five properties. Aggrieved by the said notice, Ms. B. Aruna and four others filed S.A. No. 210 of 2023 before the DRT, Hyderabad, along with I.A. No. 1371 of 2023 seeking stay of the auction. During pendency, the Petitioner withdrew the e-auction by letter dated 28.06.2023 and filed a memo before the DRT, whereupon I.A. No. 1371 of 2023 was dismissed as infructuous. S.A. No. 210 of 2023 is now posted to 21.11.2024 for arguments. It is alleged that the present Petition was filed with an ulterior motive during pendency of those proceedings.
- (vi) It is contended that until adjudication of S.A. No. 210 of 2023, the RO cannot proceed against the properties, and therefore this Petition is not maintainable. The Petition has allegedly been filed to stall or abate the DRT proceedings.
- (vii) The Corporate Debtor has further pleaded the ground of limitation. The personal guarantee relied upon by the Bank dates back to



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15.09.2012. The demand notice under Section 13(2) of the SARFAESI Act was issued on 05.10.2020, while the present Petition was filed only in May 2024. Hence, it is urged that the Petition, not having been filed within three years from the date of demand, is barred by limitation and liable to be dismissed.

4. Heard the counsels of the parties and perused the entire record.

5. **Findings**

- (i) It is an admitted fact that the Corporate Debtor availed a Secured Overdraft (**SOD**) facility of Rs. 10,00,00,000/- from the Financial Creditor. The facility was sanctioned at an interest rate of 15.50% per annum. In consideration thereof, the Corporate Debtor executed a Demand Promissory Note dated 15.09.2012 along with a Letter of Continuity (**pg. no. 125 to 127 of the Petition**), Covering Letter for Loans & Advances (**pg. no. 128 to 131 of the Petition**) and Agreement of Guarantee (**pg. no. 132 to 135 of the Petition**).
- (ii) Owing to default in repayment, the Financial Creditor was constrained to initiate proceedings before the Debt Recovery Tribunal, Hyderabad-I, by way of O.A. No. 139 of 2021. The Corporate Debtor and its Directors were impleaded as defendants in the said proceedings. It is borne out from the record that the Corporate Debtor and its Directors did not contest the matter and were proceeded ex parte.
- (iii) The DRT, vide its order dated 12.04.2022, decreed the claim of the Financial Creditor in the following terms:
 - a. *“The Defendants No.1 to 5 are jointly and severally liable to pay a total sum **Rs.10,82,13,052.22/- (Rupees Ten Crores Eighty two lakhs thirteen thousand and fifty two and twenty two paise only)** with future interest @ 18.80% p.a from the date of application till the date of realization.*
 - b. *The Applicant bank is entitled to proceed against the mortgaged properties as described in the schedule to OA properties as towards realization of its dues.*
 - c. *The Applicant Bank is also entitled to proceed against the person and properties of defendants No.2 to 5 and properties of Defendant no.1 firm towards realization of the debt due.*
 - d. *The Applicant Bank is entitled to the costs of the OA.*



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e. *The Applicant shall file a cost memo within two weeks from the date of receipt of order.*

8. *Issue Recovery certificate accordingly.”*

- (iv) Pursuant to the above directions, the Recovery Officer issued Recovery Certificate No. 143 of 2022 dated 26.07.2022 in O.A. No. 139 of 2021. The Recovery Certificate recognizes the liability of the Corporate Debtor and identifies five mortgaged properties belonging to the Corporate Debtor as part of the secured assets available for realization.
- (v) Thereafter, on 13.09.2022, demand notices were issued by the Office of the Recovery Officer to the Corporate Debtor and its Directors. Despite receipt of the said notices, the Corporate Debtor failed to discharge its liability (**pg. no. 97 to 115 of the Petition**)
- (vi) Consequent to such default, the Financial Creditor issued a Sale Notice dated 25.05.2023 (**pg. no. 31 to 35 of the Counter**) in respect of five scheduled properties, invoking Rule 6(2) and Rule 8(6) of the Security Interest (Enforcement) Rules, 2002 framed under the SARFAESI Act, 2002. This Sale Notice was challenged by third parties, namely, Ms. B. Aruna and four others, by filing S.A. No. 210 of 2023 before the DRT, Hyderabad-I (**pg. no. 12 to 30 of the Counter**).
- (vii) Alongside the said S.A., an Interim Application, I.A. No. 1371 of 2023, was filed seeking stay of the e-auction scheduled on 04.07.2023. However, prior to adjudication of the said I.A., the Financial Creditor, vide letter dated 28.06.2023 addressed to the Corporate Debtor, withdrew the e-auction proceedings (**pg. no. 10 of the Counter**). A memo was also filed before the DRT to that effect. Consequently, I.A. No. 1371 of 2023 was dismissed as infructuous vide daily order dated 30.06.2023 (**pg. no. 8 of the Counter**), and the main S.A. No. 210 of 2023 was posted to 25.08.2023.
- (viii) While the above proceedings were still pending, the Financial Creditor instituted the present Petition under Section 7 of the IBC on 22.04.2024. It is also on record that in the parallel recovery proceedings in R.P. No. 143 of 2022, the officer of the Financial Creditor filed service provider details before the Recovery Officer and sought time until 21.11.2024 to submit Loan Particulars, in view of ongoing One-Time Settlement (**OTS**) discussions. However, no material has been placed on record to demonstrate the outcome of the said negotiations.



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- (ix) The Financial Creditor filed the Record of Default wherein the date of default is 01.04.2018 and the defaulted amount as authenticated by the NeSL is Rs. 6,97,45,062/- (**pg. no. 137 to 145 of the Petition**).
- (x) In Part IV of the Petition, the Financial Creditor claimed an amount of Rs. 10,82,13,050.22/- as current outstanding and date of the default is the date of issuance of Recovery Certificate, i.e., 22.07.2022.
- (xi) According to the calculation sheet furnished by the FC (**pg.no. 136 of the Petition**) the Principal Outstanding amount is Rs. 6,97,45,062.08/- and the interest amount is Rs. 6,70,69,193.895/- while total dues stood at Rs. 13,6814,255.98/-.
- (xii) Against this backdrop, the primary question that arises for determination before this Adjudicating Authority is:

Whether a Petition under Section 7 of the IBC is maintainable where a Recovery Certificate has already been issued by the DRT and recovery proceedings are pending before the Recovery Officer?

- (xiii) This precise issue has been comprehensively addressed by the Hon'ble Supreme Court in ***Kotak Mahindra Bank Ltd. vs. A. Balakrishnan and Another***¹. The Court, after considering the scheme of the IBC and the Recovery of Debts and Bankruptcy Act, 1993, categorically held that a liability crystallized by a Recovery Certificate constitutes a "financial debt" under Section 5(8) of the IBC, and that the holder of such Recovery Certificate is a "financial creditor" entitled to initiate CIRP under Section 7. The Hon'ble Court observed:

"78. In any case, when the Legislature itself has provided that any Recovery Certificate issued under sub-section (22) of Section 19 of the Debt Recovery Act will be deemed to be a decree or order of the Court for initiation of winding-up proceedings, which proceedings are much severe in nature, it will be difficult to accept that the Legislature intended that such a Recovery Certificate could not be used for initiation of CIRP, which would enable the Corporate Debtor to continue as an ongoing concern and, at the

¹ (2022) ibclaw.in 62 SC



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same time, pay the dues of the creditors to the maximum. We, therefore, find no substance in the said submission.

.....

*84. To conclude, **we hold that a liability in respect of a claim arising out of a Recovery Certificate would be a “financial debt” within the meaning of clause (8) of Section 5 of the IBC.** Consequently, the holder of the Recovery Certificate would be a financial creditor within the meaning of clause (7) of Section 5 of the IBC. As such, the holder of such certificate would be entitled to initiate CIRP, if initiated within a period of three years from the date of issuance of the Recovery Certificate.*

*85. We further find that the view taken by the two--Judge Bench of this Court in the case of **Dena Bank** (supra) is correct in law and we affirm the same. We further find that in the facts of the present case, the application under Section 7 of the IBC was filed within a period of three years from the date on which the Recovery Certificate was issued. As such, the application under Section 7 of the IBC was within limitation and the learned NCLAT has erred in holding that it is barred by limitation.”*

Thus, the law is now well settled that the issuance of a Recovery Certificate not only validates but also strengthens the right of a Financial Creditor to move under Section 7 of the IBC, provided such application is within limitation.

- (xiv) The contention of the Corporate Debtor that pendency of proceedings before the Recovery Officer or pendency of a challenge to the SARFAESI sale notice before the DRT bars this Authority from entertaining a Section 7 application is wholly misconceived. The remedy under the IBC is distinct and independent of remedies under the Recovery of Debts and Bankruptcy Act, 1993 or the SARFAESI Act, 2002. Section 238 of the IBC confers overriding effect over other laws. Hence, pendency of parallel recovery actions cannot denude the Financial Creditor of its statutory right to initiate CIRP once debt and default stand established.
- (xv) It is significant to note that the Corporate Debtor has not disputed either the existence of financial debt or the occurrence of default. The liability has attained finality through a decree of the DRT and subsequent issuance of the Recovery Certificate. Once the foundational facts of debt and default stand demonstrated, the



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jurisdiction of this Adjudicating Authority under Section 7 is squarely attracted.

- (xvi) On the question of limitation, the Corporate Debtor has contended that the demand notice was issued under Section 13(2) of the SARFAESI Act on 05.10.2020, whereas the present Petition was filed only in 2024, and therefore the present Petition is barred by limitation. This plea is untenable in view of the authoritative pronouncement of the Hon'ble Supreme Court in **Dena Bank v. C. Shivakumar Reddy and Anr.**² which states:

“135.The judgment and order/decree of the DRT and the Recovery Certificate gave a fresh cause of action to the Appellant Bank to initiate a petition under Section 7 of the IBC.

.....

143. Moreover, a judgment and/or decree for money in favour of the Financial Creditor, passed by the DRT, or any other Tribunal or Court, or the issuance of a Certificate of Recovery in favour of the Financial Creditor, would give rise to a fresh cause of action for the Financial Creditor, to initiate proceedings under Section 7 of the IBC for initiation of the Corporate Insolvency Resolution Process, within three years from the date of the judgment and/or decree or within three years from the date of issuance of the Certificate of Recovery, if the dues of the Corporate Debtor to the Financial Debtor, under the judgment and/or decree and/or in terms of the Certificate of Recovery, or any part thereof remained unpaid.”

- (xvii) The Court in **Dena Bank** (supra) held that the issuance of a decree or a Recovery Certificate provides a fresh cause of action to the Financial Creditor for initiating proceedings under Section 7 of the IBC, and that the limitation period of three years is to be reckoned from the date of such decree or certificate.

- (xviii) In the present case, Recovery Certificate No. 143 of 2022 was issued on 26.07.2022. The Petition under Section 7 was filed on 22.04.2024, which is well within the prescribed limitation of three years under Article 137 of the Limitation Act, 1963 read with Section 238A of the IBC. Accordingly, the plea of limitation raised by the Corporate Debtor is unsustainable and liable to be rejected.

² (2021) ibclaw.in 69 SC



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(xix) In light of the above discussion and binding precedents, this Adjudicating Authority concludes that:

- a) The Financial Creditor has established the existence of a financial debt.
- b) Default in repayment by the Corporate Debtor stands proved.
- c) The Petition is within limitation.
- d) Pendency of proceedings before the DRT or the Recovery Officer does not bar initiation of CIRP under Section 7 of the IBC.

(i) Thus, this Adjudicating Authority is satisfied that the requirements under Section 7 of the IBC are duly fulfilled. The present Petition is therefore maintainable, both on facts and in law. Accordingly, the following directions are issued:

- a) The Application is admitted and this Adjudicating Authority orders the commencement of the Corporate Insolvency Resolution Process, which shall ordinarily be completed within the timelines stipulated in the Code, 2016 (as amended), reckoning from the date on which this order is passed.
- b) The Applicant has proposed the name of **Mr. Kalvakota Venkat Narsinga Rao**³, Registration No.: IBBI/IPA-001/IP-P01361/2018-2019/12130, whose AFA as per the IBBI Website is valid up to 31.12.2025, as the Interim Resolution Professional (hereinafter referred to as the "**IRP**"). The proposal to appoint **Mr. Kalvakota Venkat Narsinga Rao** as IRP is approved. The IRP is directed to file Authorization for Assignment within three days from the date of this order.
- c) The IRP is directed to take charge of the management of the Corporate Debtor, immediately. He is also directed to cause a public announcement as prescribed under Section 15 of the Code, 2016, within three days from the date of receipt of this order, and call for submissions of claim in the manner as prescribed.
- d) Moratorium is hereby declared and shall have effect from the date of this order till the completion of the CIRP, for the purposes referred to in Section 14 of the Code, 2016. It is hereby ordered that all of the following are prohibited:
 - I. The institution of suits or continuation of pending suits or proceedings against the Corporate Debtor, including

³Registration No.: IBBI/IPA-001/IP-P01361/2018-2019/12130, Address: Flat No. 103, Balaji Vishwam Vihar Apartment, Madhura Nagar, Ramnathpur, Hyderabad-500013. Email: kvnrassociates@gmail.com, Contact No.: 9550142087.



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execution of any judgment, decree, or order in any court or law, tribunal, arbitration panel, or other authority;

- II. Transferring, encumbering, alienating, or disposing of by the Corporate Debtor any of its assets or any legal rights or beneficial interest therein;
 - III. 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 Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (54 of 2002);
 - IV. The recovery of any property by an owner or lessor where such property is occupied by or in the possession of the corporate debtor.
 - V. 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, 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, concessions, clearances or a similar grant or right during the moratorium period.
- e) The supply of essential goods or services to the Corporate Debtor shall not be terminated, suspended or interrupted during the moratorium period. Further, if the IRP considers supply of any goods or services critical to protect and preserve the value of the Corporate Debtor and manage the operations of such Corporate Debtor as a going concern, then the supply of such goods or services shall not be terminated, suspended or interrupted during the period of moratorium, except where such Corporate Debtor has not paid dues arising from such supply during the moratorium period. Furthermore, the provisions of Sub-section (1) of Section 14 shall not apply to such transactions, agreements or other arrangement as may be notified by the Central Government in consultation with any financial sector regulator or any other authority.



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- f) The IRP shall comply with the provisions of Sections 13(2), 15, 17 & 18 of the Code, 2016. The Directors, Promoters or any other person associated with the management of Corporate Debtor are directed to extend all assistance and co-operation to the IRP as stipulated under Section 19 for discharging his functions under Section 20 of the Code, 2016.
- g) The Corporate Applicant as well as the Registry is directed to send a copy of this Order to the IRP, to enable him to take charge of the assets, etc. of the Corporate Debtor, and comply with this order as per the provisions of the Code, 2016.
- h) The Registry is directed to communicate this Order to the Corporate Applicant.
- i) The Registry shall also communicate this Order to the Registrar of Companies, Hyderabad, for updating the status of the Corporate Debtor on the website of the Ministry of Corporate Affairs.

Accordingly, this Petition is hereby **allowed** and disposed of.

Sd/-

YOGENDRA KUMAR SINGH
MEMBER (TECHNICAL)

Sd/-

RAJEEV BHARDWAJ
MEMBER (JUDICIAL)