

IN THE NATIONAL COMPANY LAW TRIBUNAL
JAIPUR BENCH

CORAM: SHRI DEEP CHANDRA JOSHI,
HON'BLE JUDICIAL MEMBER

SHRI ATUL CHATURVEDI,
HON'BLE TECHNICAL MEMBER

IA No. 112/JPR/2023
In CP No. (IB)- 297/7/JPR/2019

IN THE MATTER OF:

MRS. SAROJ GUPTA

.... Financial Creditor

VERSUS

M/S AASTHA BUILDHOME DEVELOPERS PVT. LTD.

.... Corporate Debtor

MEMO OF PARTIES

IA No. 112/JPR/2023:

PRASHANT AGRAWAL

*(Resolution Professional of M/s
Aastha Buildhome Pvt. Ltd.)*

Having its office at F-106, Sumer
Complex, Gautam Marg, B/h
Bagadia Bhawan, Jaipur.

E-Mail: ippagarwal@gmail.com
/abdpl.cirp@gmail.com

...Applicant

VERSUS

MS. PRATIBHA KHANDELWAL, AR OF ALLOTTEES,

*(Forming a class of creditors of the Corporate
Debtor, M/s Aastha Buildhome Pvt. Ltd.)*

Having her office at T5/1001, Rangoli Greens,
Maharana Pratap Marg, Panchyawala, Vaishali
Nagar, Jaipur 302021, Rajasthan

E-mail Address: cspratibhak@gmail.com/
ar.abdpl@gmail.com

... Respondent No. 1

Sdr

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PIRAMAL CAPITAL HOUSING FINANCE LIMITED

Having its office at 4th Floor, Piramal Tower,
Peninsula Corporate Park, Ganpatrao Kadam
Marg, Lower Parel-West, Mumbai-400013
Email Address: Pankaj.Kejriwal@piramal.com

... Respondent No. 2

MR. JAI PRAKASH GUPTA

Resident of III/81, Sanchar Vihar Colony,
Malviya Nagar, Jaipur- 302017, Rajasthan
E-mail Address: jtoetfbtp@gmail.com

... Respondent No. 3

MR. DINESH DHINGRA

Resident of C- 91, Ansals Sushant City, Kalwar
Road, Jaipur- 302012
E-mail Address: add20088@gmail.com

... Respondent No. 4

MR. ROHITASHWA SHARMA

Resident of 357, Vasundhra Colony, Tonk Road,
Jaipur- 302019
E-mail Address: rohitchotu@rediffmail.com

... Respondent No. 5

MR. RAJESH KUMAR JAIN

Resident of B2/1403, Meadows, Shantigram,
Near Vaishodevi Circle, SG Highway,
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... Respondent No. 6

MR. DHEERAJ BHANU TAK

Resident of Jatapada, Sanghpura, Purani Tonk,
Tonk- 304001 Rajasthan
E-mail Address: dheerajt11@gmail.com

... Respondent No. 7

MR. PRAMOD BAJRANG SHARMA

Resident of Ayodhya Park, Bungalow No. S- 10,
Near DYP City Mall, Old Pune – Bangalore
Road, Tararani Chowk, Kawala Naka, Kolhapur
– 416005, Maharashtra
E-mail Address: pksharma275@gmail.com

... Respondent No. 8

Sd/-

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MR. SEEMA PRAMOD SHARMA

Resident of Ayodhya Park, Bungalow No. S- 10,
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Road, Tararani Chowk, Kawala Naka, Kolhapur
– 416005, Maharashtra

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... Respondent No. 9

MS. MANJU RANI ALIAS MANJU OOMMEN

Resident of Q.No.B. 4/1, Jawahar Navodaya
Vidhyalaya, HCU Campus, Gopanpally,
Serilingampally, District: Rangareddy, Telengana
– 500046

E-mail Address: mesinghmanju@gmail.com

... Respondent No. 10

MS. CHARU KRITI SAXENA

Resident of House No. 2846, 2nd Floor, Sector-
23, Gurugram, Haryana

E-mail Address: charusaxena468@gmail.com

... Respondent No. 11

MR. SANTOSH GUPTA

Resident of Ward No. 26, Dhanwantari Nagar,
Nahar Road, Near Gulabdevi Memorial Hospital
Gangapurcity, Sawai Madhopur 322201

E-mail Address: santoshgreencore@yahoo.in

... Respondent No. 12

MR. MANIK CHAND GARG

Resident of Plot No. 77, First Floor, Ashirvad 2nd,
Shiv Nagar-A, Harnathpura, Jaipur- 302012

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... Respondent No. 13

MR. GAURAV DWIVEDI

Resident of 17-A, Behind Sudha Hospital,
Talwani, Kota- 324005

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... Respondent No. 14

MR. GHANSHYAM NATH DWIVEDI

Resident of 17-A, Behind Sudha Hospital,
Talwani, Kota- 324005

E-mail Address: gn17dwivedi@gmail.com

... Respondent No. 15

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**MR. MULENDRA SINGH**

Resident of 17-A, Behind Sudha Hospital,
Talwani, Kota- 324005

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... Respondent No. 16

MR. DINESH KUMAR JAIN

Resident of 202, Shanti Nath Royals, Rangpur
Road, N.4, Dadwada, Rangpur, Kota Rajasthan
324002

Email Address: jaindk@gmail.com

... Respondent No. 17

MR. BALENDRA PRASAD

Resident of H.No. H-3/109, 1st Floor, Mahavir
Enclave, Bengali Colony, New Delhi – 110045

Email Address: bprasad.ssbj@gmail.com

... Respondent No. 18

MS. SANCHITA PRASAD

Resident of H.No. H-3/109, 1st Floor, Mahavir
Enclave, Bengali Colony, New Delhi – 110045

Email Address: bprasad.ssbj@gmail.com

... Respondent No. 19

MR. MAHESH KUMAR GOYAL HUF

Resident of C – 331, Mahesh Nagar, Tonk Phatak,
Jaipur – 302018

E-mail Address: mahesh851@gmail.com

... Respondent No. 20

MRS. MANJU GOYAL

Resident of C – 331, Mahesh Nagar, Tonk Phatak,
Jaipur – 302018

E-mail Address: mahesh851@gmail.com

... Respondent No. 21

MS. SHRISTI GOYAL

Resident of C – 331, Mahesh Nagar, Tonk Phatak,
Jaipur – 302018

E-mail Address: mahesh851@gmail.com

... Respondent No. 22

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**MS. RANJANA PODDAR**

Resident of 35, Deepak Vatika, Ajmer Bypass
Road, Badarwas, Jaipur – 302020
E-mail Address: sahaj@exol.in

... Respondent No. 23

MR. RAMAVTAR GUPTA

Resident of 30/16/12, Sector 30, Ward No. 13,
Mansarovar, Jaipur
E-mail Address: rmgupta62@yahoo.com

... Respondent No. 24

ASTHA FLAT BUYERS' ASSOCIATION

Address for correspondence: G.N. Dwivedi
(President), Resident of 17-A, Behind Sudha
Hospital, Talwani, Kota- 324005
E-mail Address: gn17dwivedi@gmail.com

... Respondent No. 25

FOR THE APPLICANT : Mr. Prashant Agrawal, RP
FOR THE HOMEBUYERS : Ms. Pratibha Khandelwal, AR

Order Pronounced On:12.10.2023**ORDER****Per: Shri Deep Chandra Joshi, Judicial Member**

1. The present Interlocutory Application bearing the *IA No. 112/JPR/2023* has been filed by *Mr. Prashant Agrawal*, Resolution Professional ('Applicant') under Section 60(5)(a) of the Insolvency and Bankruptcy Code, 2016 ('Code'/ 'IBC') praying for exclusion of the time period elapsed and necessary directions therein.
2. In the main matter, an application u/s 7 of IBC, 2016 was filed by *Mrs. Saroj Gupta* against the Corporate Debtor i.e. *M/s Aastha Buildhome Developers Pvt. Ltd.* and vide Order dated 09.12.2022 CIRP proceedings were initiated

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against the Corporate Debtor whereby *Mr. Prashant Agrawal* was appointed as the Interim Resolution Professional ('IRP') by this Adjudicating Authority.

3. In the first meeting of the Committee of Creditors ('CoC') held on 09.01.2023, the IRP (*Mr. Prashant Agrawal*) was confirmed as Resolution Professional ('RP') by the CoC. Thereafter, an application bearing *IA No. 63/JPR/2023* was moved before this Adjudicating Authority for taking the minutes of the meeting on its record and for approval of the appointment of Resolution Professional.
4. Further, the Respondent No.1 herein *Ms. Pratibha Khandelwal*, was appointed as the Authorized Representative representing allottees forming a class of creditors vide Order dated 13.01.2023. As per the last updated list of creditors, claims of 65 out of 81 homebuyers, have been admitted. Accordingly, the Authorized Representative represents and votes on behalf of the 65 such homebuyers in the meetings of the CoCs, where the voting share of the Homebuyers is 43.44%.
5. The Respondent No. 2 is an NBFC, representing the vote share of 34.24%. The Respondent No. 3 to 24 are unsecured financial creditors, representing the balance voting share of 22.42%. The Respondent No. 25 is an association of persons, formed and registered to represent the home buyers of the Corporate Debtor, presided by Respondent No. 15.

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6. In compliance of Regulation 36A(1) of the CIRP Regulations, the Applicant called the 2nd meeting of the CoC to put forth the resolution for eligibility criteria, approval of evaluation matrix and request for Resolution Plan ('RPRF'). During the second meeting of CoC, held on 04.02.2023, the criteria fixed for eligibility, evaluation matrix and RFRP were discussed at length and majority of the members actively suggested modification to the terms fixed by the Applicant. Such modifications were duly carried out. Pursuant to the voting, the Applicant published Form-G in the Jaipur edition of the Economic Times and Virat Vaibhav on 07.02.2023, and uploaded the same over the website of IBBI. The copy of Form- G along with the extracts of newspaper have been annexed with the Application.
7. It is submitted that some of the home buyers have collectively formed an association of persons, namely, "*Astha Flat Buyers' Association*" (Respondent No.25) which is presided by Respondent No. 15. Seeing that the Respondent No. 25 was the voice of influence among the home-buyers, the same was separately invited to the second meeting of the CoC, in order to explain the purpose and importance of approval of eligibility criteria, evaluation matrix, and RFRP in a CIRP, however, no one was present for the Respondent No. 25.
8. It is also contended that in the second meeting of CoC, the Respondent No. 25 issued voting guidelines dated 06-02-2023 on its letterhead, signed by their secretary, one *Mr. Pankaj Jain* who is one of the home-buyers. The



voting guidelines categorically instructed the home buyers to cast their vote in dissent for all the agendas put forward in the meeting. The voting instructions were shared by the association member of Respondent No. 25 on the WhatsApp group formed by the Applicant. The copy of the voting guidelines have been annexed with the Application as Annexure-3. Considering the technical glitch, the voting window was extended by the Applicant.

9. Upon the closure of the window and receipt of voting results (along with the consolidation of voting by two home buyers who could not vote through e-voting platform), it was found that none of the agendas put forward in the second meeting of CoC dated 04.02.2023 were approved with requisite approval. The Respondent No. 2, 8 and 24 voted in affirmation to the resolution put forward, however, the rest dissented the resolution of the agendas of the meeting.
10. The Applicant vide e-mail dated 11.02.2023 requested the Respondent No. 1 to educate the class of creditors regarding the consequences of their decision. The Respondent No. 1 informed that she has tried to ensure that the homebuyers are aware of the repercussions of disapproval of EOI and RFRP but to no avail. Copies of email dated 11.02.2023 sent by the Applicant and Response by the Respondent No. 1 is attached herewith and marked as Annexure 7 & 8.

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11. Moreover, it is contended that the Applicant explained to the CoC in their first and the second meeting that the suspended board of directors and the erstwhile management of corporate debtor are not cooperating, due to which an application was presented i.e. *IA No. 56/JPR/2023* under section 19(2) of the Code, 2016. Since the suspended board of directors are not handing over the control of the assets of the Corporate Debtor, another application under section 25 of the Code, 2016 has been moved before this Adjudicating Authority. Also, the queries raised by Respondent No. 1 are not directly related to the agendas put forward in the meeting and are a garb for not continuing the present process of CIRP. The Applicant has diligently provided answers to the queries of the Respondent No. 1 to 24, which can be seen in the copy of response to the queries received by the Applicant.
12. The Applicant has been constrained to file this Application as the Form - G was published in the newspaper on 07.02.2023 and subsequently, the interested and prospective Resolution Applicants are seeking Eligibility Criteria for participating in resolution process of the Corporate Debtor. However, due to non-approval of the essential agendas, the Applicant has not been able to share the information sought thereby halting the CIRP of the Corporate Debtor.
13. Thereafter, the Applicant called the 3rd meeting of the Committee of Creditors on 25.04.2023 where the Applicant explained the necessity of approval of the essential documents during the CIRP of the Corporate



Debtor and upon the conclusion of the meeting, the approval of essential documents and exclusion of time period from CIRP amongst other agenda items were put to vote. Amongst other agendas, the essential documents and the exclusion of time period were approved by 69.63% vote shares.

14. We have heard the Ld. Counsel for the parties and perused the averments made in the Application along with the documents enclosed therein.
15. The proviso to Section 12(3) entails that the time taken in legal proceedings may be excluded for the purpose of the CIRP of the Corporate Debtor. In the present matter, it is seen that Application under Section 19(2) bearing *IA No. 56/JPR/2023* has been filed in the month of January, 2023 and is pending before this Adjudicatory Authority. Moreover, the Respondents have co-operated with the Applicant for the purpose of filing of this Application.
16. In view of the Application pending before this Adjudicating Authority, a period from 04.02.2023 till the date of passing of this Order i.e. 12.10.2023 is excluded from the CIRP of the Corporate Debtor. Accordingly, the Application bearing *IA No. 112/JPR/2023* stands disposed off.

**DEEP CHANDRA JOSHI,
JUDICIAL MEMBER**

**ATUL CHATURVEDI,
TECHNICAL MEMBER**