

NATIONAL COMPANY LAW TRIBUNAL
INDORE SPECIAL BENCH
COURT NO. 1

ITEM No.301
IA/195(MP)2025
in
CP(IB)/18(MP)2024

Order under Section 60(5) r.w Rule 11

IN THE MATTER OF:

Aditya Bhatnagar & Ors
V/s
Bank of Baroda & Ors

.....Applicants

.....Respondents

Order delivered on 23/06/2025

Coram:

Shammi Khan, Hon'ble Member(J)
Sanjeev Kumar Sharma, Hon'ble Member(T)

ORDER
(Hybrid Mode)

IA/195(MP)2025 in CP(IB)/18(MP)2024

The case is fixed for pronouncement of the order. The order is pronounced in open Court *vide* separate sheet.

Sd/-

SANJEEV KUMAR SHARMA
MEMBER (TECHNICAL)

Neeraj

Sd/-

SHAMMI KHAN
MEMBER (JUDICIAL)

**BEFORE THE ADJUDICATING AUTHORITY
THE NATIONAL COMPANY LAW TRIBUNAL
SPECIAL BENCH AT INDORE**

**I.A. No.195 (MP) of 2025
IN
CP(IB) No. 18/MP/2024**

IN THE MATTER OF: Extol Industries Limited

MEMO OF PARTIES

1. SHRI ADITYA BHATNAGAR

Suspended Director & Promotor of Corporate Debtor
s/o Shri Gyanendra Kumar Bhatnagar
Address: 1/3, Amaltas Complex
Shahpura, Bhopal MP-462039.

...APPLICANT NO.1

2. SHRI ABHINAV BHATNAGAR

Suspended Director & Promotor of Corporate Debtor
s/o Shri Gyanendra Kumar Bhatnagar
Address: 1/3, Amaltas Complex
Shahpura, Bhopal MP-462039

...APPLICANT NO.2

3. SHRI GYANENDRA KUMAR BHATNAGAR

Suspended Director & Promotor of Corporate Debtor
s/o Shri Gyanendra Kumar Bhatnagar
Address: 1/3, Amaltas Complex
Shahpura, Bhopal MP-462039.

...APPLICANT NO.3

4. SMT. SUDARSHNA BHATNAGAR

Suspended Director & Promotor of Corporate Debtor
s/o Shri Gyanendra Kumar Bhatnagar
Address: 1/3, Amaltas Complex
Shahpura, Bhopal MP-462039.

...APPLICANT NO.4

5. SMT. SHEELA BHATNAGAR

Suspended Director & Promotor of Corporate Debtor
s/o Shri Gyanendra Kumar Bhatnagar
Address: 1/3, Amaltas Complex
Shahpura, Bhopal MP-462039

...APPLICANT NO.5

VERSUS

1. BANK OF BARODA

Branch Address: 1489,
Wright Town, Near Manas Bhawan,
Jabalpur, M.P. (India)

...RESPONDENT NO.1

2. MS. TEENA SARASWAT PANDEY

Resolution Professional of Corporate Debtor
Address: 387F, 114 Scheme Part-I,
Behind Diksha Boys Hostel,
Sant Nagar, Indore,
Madhya Pradesh, 452010.

...RESPONDENT NO.2

3. MS. MUSKAN GUPTA,

D/o Shri Jitendra Gupta,
R/o B/51, Kamla Nagar,
Kotra Sultanabad, Bhopal (M.P.).

...RESPONDENT NO.3

4. MS. RENU CHOUDHARY,

W/o Shri Virender Kumar
Singh, R/o: D-23, Char Emli,
Bhopal, District Bhopal (MP)

...RESPONDENT NO.4

5. MR. SONU PACHORI,

S/o: Shri Suresh Pachori,
R/o: 212, A-Block, Sagar Land Mark,

Ayodhya By-Pass, Bhopal,
Bhopal (M.P.)

...**RESPONDENT NO.5**

6. SMT. SUNITA DEHARIA,
W/o: Shri Ashish Kumar Deharia,
R/o: House No.52, Globus Fab City,
Chuna Bhatti, Kolar Road,
Bhopal (MP)

...**RESPONDENT NO.6**

ORDER PRONOUNCED ON: 23.06.2025

C O R A M :

SH. SHAMMI KHAN, HON'BLE MEMBER JUDICIAL
SH. SANJEEVKUMAR SHARMA, HON'BLE MEMBER (TECHNICAL)

A P P E A R A N C E:

For the Applicants : Mr. Rajat Kumar Mittal, Advocate.
For the Respondent :

O R D E R
Per: Bench

1. This Application has been filed on 07.05.2025 by the Applicants under Section 60(5) of The Insolvency and Bankruptcy Code, 2016, Read With Rule 11 of National Company Law Tribunal Rules, 2016, for seeking Appropriate Directions with the following prayers: -
 - a. Declare that the auction sale of the Mortgaged Property conducted by the Respondent No.1/ Bank of Baroda on 24.01.2023 and the Sale Certificate

dated 23.02.2023, as well as the Registered Sale Deed dated 01.03.2023, are illegal, fraudulent, void ab initio, and non-est in law;

- b. Direct the Respondent No.1/ Bank of Baroda to compensate the Corporate Debtor for the financial loss suffered on account of the fraudulent and undervalued sale of the Mortgaged Property, including consequential damages as may be assessed by the Resolution Professional from the valuation report from the approved valuer and upon approval by this Hon'ble Tribunal;
- c. Direct the Resolution Professional of Extol Industries Limited to take immediate steps/ necessary actions in accordance with law to protect and preserve the Mortgaged Property in terms the I&B Code;
- d. Pass an order of status quo in respect of the Mortgaged Property, restraining the auction purchasers, their nominees, or any person claiming under them, from creating any third-party rights, transferring, alienating, encumbering, disposing of, or otherwise dealing with the Mortgaged Property, pending final adjudication of the present application;
- e. Pass such further or other orders as may be deemed just, fit, and proper in the facts and circumstances of the case in the interest of justice.

- 2.** The Applicants are seeking to declare the auction sale conducted by Respondent No. 1, Bank of Baroda, on 24.01.2023, the sale certificate dated 23.02.2023, and the sale deed dated 01.03.2023, concerning the mortgaged property at Khasra No. 403/2, Village Bhanjari, Bhopal, as void. The Applicants also seek directions to Respondent No. 2, Resolution Professional Teena Saraswat Pandey, to protect the Corporate Debtor's assets and a status quo order on the property.
- 3.** The Respondents include Bank of Baroda, the Resolution Professional, and auction purchasers Muskan Gupta, Renu Choudhary, Sonu Pachori, and Sunita Deharia. The Corporate Debtor is under Corporate Insolvency Resolution Process (CIRP) vide order dated 24.03.2025 by this Tribunal. An additional affidavit filed on 15.05.2025 by Applicant No. 1, Aditya Bhatnagar to place additional documents to provide further evidence.
- 4.** The Corporate Debtor and Applicants availed credit facilities from Bank of Baroda, Term Loan-I (Rs. 10,34,00,000), Term Loan-II (Rs. 2,00,00,000), Cash Credit (Rs. 15,00,00,000),

Housing Loan-I (Rs. 4,75,00,000), and Housing Loan-II (Rs. 40,00,000). The property Khasra No. 403/2, Village Bhanjari, Bhopal, was owned by Applicant No. 5, Sheela Bhatnagar, and was mortgaged to secure the aforementioned Credit Facilities as evidenced by the sanction letter dated 30.04.2011.

5. The Applicants, including Applicant No. 5 (Sheela Bhatnagar) as the owner of the mortgaged property at Khasra no. 403/2, Village Bhanjari, Bhopal, lack locus standi to invoke under Section 60(5) of the IBC. This section empowers the Tribunal to adjudicate matters arising out of or in relation to the CIRP. Since the property is not an asset of the Corporate Debtor and its sale does not impact the CIRP, the dispute concerns Applicant No. 5's personal property rights, which fall outside this Tribunal's jurisdiction. The prayer for compensation for alleged financial loss due to a fraudulent and undervalued sale is also outside this Tribunal's jurisdiction under Section 60(5), as it pertains to Applicant No. 5's personal property and requires adjudication of fraud claims, which are appropriately addressed under the SARFAESI Act framework

or civil courts. This position is supported by the Supreme Court in ***Embassy Property Developments Pvt. v. (2020) 13 SCC***, which held that the NCLT's jurisdiction under Section 60(5) is limited to matters directly related to the insolvency resolution process, excluding disputes over third-party or personal assets.

- 6.** The auction sale was challenged by the Applicants and the Corporate Debtor in Securitisation Application (SA) No. 231/2017 before the Debt Recovery Tribunal (DRT), Jabalpur, which was dismissed on 31.07.2024. No appeal was filed before the Debt Recovery Appellate Tribunal (DRAT) under Section 18 of the SARFAESI Act, 2002, within the statutory period of 30 days from the DRT's order dated 31.07.2024 (i.e., by 30.08.2024). A belated appeal was filed on 05.04.2025 vide Appeal Diary No. 540 of 2025, which is pending adjudication before DRAT, Allahabad.
- 7.** The Applicants' allegations of procedural violations, including non-service of notices, suppression of existing liens or charges, undervaluation, and agricultural land exemption, were adjudicated in SA No. 231/2017 before the DRT,

Jabalpur, which dismissed the application on 31.07.2024. As the parties and cause of action are substantially identical, the principle of res judicata under Section 11 of the CPC applies, barring re-litigation before this Tribunal. The Resolution Professional's inaction is irrelevant, as the property is not a CIRP asset.

8. In view of the Applicants' lack of locus standi under Section 60(5) of the IBC, the prior adjudication by the DRT, and the inapplicability of this Tribunal's jurisdiction to personal property disputes, the prayers seeking to declare the auction sale void, direct compensation, or issue protective orders cannot be granted. The Applicants' recourse lies in pursuing their appeal before the DRAT, Allahabad.
9. Therefore, **I.A. No.195 (MP) of 2025** is dismissed. No order as to costs.

Sd/-
SANJEEVKUMAR SHARMA
MEMBER (TECHNICAL)

Sd/-
SHAMMI KHAN
MEMBER (JUDICIAL)