



THE NATIONAL COMPANY LAW TRIBUNAL

COURT VI, NEW DELHI

I.A. 4224/2021

IN

Company Petition No. (IB) – 806/(PB)/2019

*Under Section 60(5) of the Insolvency and Bankruptcy
Code, 2016 read with Rule 11 of NCLT Rules, 2016.*

IN THE MATTER OF:

RAVINDER AGGARWAL & ORS.

.... FINANCIAL CREDITOR

VERSUS

M/S MSA DEVELOPERS PRIVATE LIMITED

..... CORPORATE DEBTOR

AND IN THE MATTER OF-

YASMIN SABIR ALI

.... APPLICANT

VERSUS

RABINDRA KUMARI MINTRI

..... RESPONDENT NO 1

DEEPAK AGGARWAL

..... RESPONDENT NO 2



CORAM:

**SHRI. BACHU VENKAT BALARAM DAS, HON'BLE MEMBER
(JUDICIAL)**

**SHRI RAHUL BHATNAGAR, HON'BLE MEMBER
(TECHNICAL)**

For the Applicant: Ms. Eshna Kumar, Mr. Aditya Maheshwari and
Ms. Prachi Bhatia, Advs. in IA/4224

For SRA: Mr. Gaurav Mitra, Mr. Karan
Malhotra, Mr. Tushar Goel and Mr.
Parish Mishra, Advs.

ORDER

PER- RAHUL BHATNAGAR, MEMBER (TECHNICAL)

Order Pronounced on: 13.10.2023

1. This application has been filed by the Prospective Resolution Applicant i.e. Mr. Yashmin Sabir Ali under section 60(5) of the Insolvency and Bankruptcy Code, 2016 read with Rule 11 of NCLT Rules, 2016 to direct the Resolution Professional to place the Resolution Plan of the Applicant before the Committee of Creditors. The applicant has prayed for the following relief(s): -

a. Allow the present application and pass an order directing the Resolution Professional to place the



*Resolution Plan of the Applicant herein before the
Committee of Creditors*

- b. Pass an order Resolution Professional by directing to
reject the Respondent No.2 and conduct a fresh voting
on the Resolution Plan submitted by the Applicant
herein*
- c. Barred the Respondent No.2 by submitting fresh
Resolution Plan*
- d. Direct the Respondent No.1 to take appropriate legal
step against Respondent No.2 for placing forged and
fabricated documents before the CoC*
- e. Pass such other or further orders and for directions as
this Hon'ble Tribunal may deem fit in the facts and
circumstances of the present case*

2. We have heard the parties on merits. On perusal of the records, it is observed that the Committee of Creditors with 80.12% voting shares have already approved the Resolution Plan in the 12th meeting of CoC held on 31st August 2021. The applicant was one of the Prospective Resolution Applicants, however the CoC approved the Resolution Plan submitted by Respondent No 2 with



80.12% voting shares. The Unsuccessful Resolution Applicant does not have any locus to challenge the Resolution Plan since the plan submitted by Unsuccessful Resolution Applicant was also put to vote before the CoC in its 12th CoC meeting held on 31.08.2021 along with the Resolution Plan of Respondent No 2 in which it was the Resolution Plan submitted by Respondent No 2 which was approved. We also like to place reliance on judgement of Hon'ble NCLAT Chennai in IA No. 215 of 2023 in Comp. App (AT) (CH) (INS.) No. 58 of 2023 (dated 17.03.2023). The relevant part is reproduced below:

*31. On a careful consideration of the respective contentions advanced on either side, this 'Tribunal', keeping in mind of a vital fact that the 'Petitioner / **Appellant**', **being an 'Unsuccessful Resolution Applicant', has no 'Locus', to 'assail' a 'Resolution Plan' or its 'implementation', coupled with a candid fact that he is not a 'Stakeholder', as per Section 31 (1) of***



the I & B Code, 2016, in relation to the `Corporate Debtor`, this `Tribunal`, without any `haziness`, holds that the `Petitioner / Appellant`, is not an `Aggrieved Person`, coming within the ambit of Section 61 (1) of the I & B Code, 2016, especially, when he is not a `Privy`, to the `Resolution Plan`. Viewed in that perspective, the `Leave`, sought for in IA No. 215 of 2023 in Comp. App (AT) (CH) (INS.) No. 58 of 2023, sans merits.

*In fine, **IA No. 215 of 2023 in Comp. App (AT) (CH) (INS.) No. 58 of 2023, is dismissed.** No costs.*

3. The applicant has also raised allegations against the Successful Resolution Applicant, the IRP has already pointed out the same allegations in IA 1078/ND/2022. We have taken note of the same and the same will be dealt with in IA 1078/ND/2022.



4. Therefore, in view of the judgements as referred above,
I.A No 4224/2021 stands dismissed. No order as to
costs.

SD/-

(RAHUL BHATNAGAR)
MEMBER (TECHNICAL)

SD/-

(BACHU VENKAT BALARAM DAS)
MEMBER (JUDICIAL)