

**NATIONAL COMPANY LAW APPELLATE TRIBUNAL,  
PRINCIPAL BENCH, NEW DELHI**

**Comp. App. (AT) (Ins.) No. 835 of 2022**

**In the matter of:**

**Rajiv Shrivastava**

**....Appellant**

**Vs.**

**Manish Kumar Gupta, Resolution Professional,  
Three C Projects Pvt. Ltd. & Anr.**

**...Respondents**

**For Appellant: Mr. Lokesh Malik, Advocate.**

**For Respondents: Mr. GP Madaan, Advocate for R2.  
Mr. Manish Kr. Gupta, RP**

**ORDER**

**(Through Virtual Mode)**

**21.07.2022:** Heard Learned Counsel for the Appellant. Shri G.P. Madaan appears for the Respondent No.1. Insolvency and Bankruptcy Board of India (IBBI) has also been impleaded as Respondent No.2. We permit the Appellant to delete the Respondent No.2 from the array of parties.

2. This Appeal has been filed against the order dated 03.06.2022 passed by the Adjudicating Authority (National Company Law Tribunal), New Delhi, Principal Bench in I.A No. 3375 of 2021. In the I.A No. 3375 of 2021 filed by the Appellant who is a Financial Creditor being Homebuyer following prayers have been made:-

*“a) Allow the instant application and direct the Resolution Professional to put forth the agenda for removal of RP before the CoC along with appointment of Mr. Nilesh Sharma as Resolution Professional as considered by CoC and include other Insolvency Professionals, if any.*

*b) To direct the Authorized Representative- Mr. Durgadas Aggarwal to act as an administrator for the voting on the said agenda and appointment of new Resolution Professional.*

*c) Any other relief as this Hon'ble Tribunal may deem fit so in the facts and circumstances of the case."*

3. The Adjudicating Authority vide earlier order dated 14.12.2021 has requested the Hon'ble Justice (Retd.) Rajiv Sahai Endlaw, Former Judge, High Court of Delhi to take up the assignment as a Commissioner in holding the meeting of the Homebuyers and to elect the Authorized Representative. The meeting has been convened and report has been submitted electing one Mr. Anoop Prakash Awasthi as the Authorized Representative of the Homebuyers. The Resolution Professional in the CIRP has resigned on 02.07.2022. Shri G.P. Madaan, Learned Counsel appearing for the Resolution Professional submits that although he has resigned on 02.07.2022 but with a condition that he shall continue as ad-hoc Resolution Professional till new arrangement is made.

4. We are of the view that the Resolution Professional who has submitted resignation on 02.07.2022 is not entitled to carry on any further proceeding nor he can hold or convene any meeting. In view that the Resolution Professional has resigned, new Resolution Professional is to be chosen by the Committee of Creditors (CoC). There cannot be any convening of meeting by earlier RP. However, the CIRP cannot be allowed to be delayed due to the said reason. Hence, we are of the view that this Tribunal may direct for convening of the meeting of the CoC and we request Hon'ble Justice (Retd.) Rajiv Sahai Endlaw, to convene a meeting of the CoC within a period of one month from today. Justice (Retd.) Rajiv Sahai Endlaw shall take assistance of the officer who was nominated by the Adjudicating Authority vide order dated 14.12.2021. Necessary steps regarding convening the meeting may be taken by the Court Commissioner appointed for this purpose. We are also of

the view that in the meeting to be convened under this order the only agenda shall be appointment of new Resolution Professional.

5. With regard to remuneration payable to Court Commissioner, it is for the Court Commissioner to intimate his remuneration to the CoC who shall make the payment as was earlier directed by the Adjudicating Authority in its order dated 14.12.2021. Respondent No.1 erstwhile Resolution Professional who has already resigned shall handover all the assets and other documents to Authorized Representative who has already been appointed who in turn shall hand over the same to the new Resolution Professional appointed in the next CoC meeting. We further direct the Authorized Representative to give his fullest cooperation to the Court Commissioner for the purpose of convening the meeting and for other consequential steps.

6. In view of the aforesaid, we see no reason to keep this Appeal pending. With the aforesaid directions, we dispose of this Appeal.

**[Justice Ashok Bhushan]  
Chairperson**

**[Justice M. Satyanarayana Murthy]  
Member (Judicial)**

**[Barun Mitra]  
Member (Technical)**

***Anjali/nn***