

NATIONAL COMPANY LAW APPELLATE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI

Company Appeal (AT) (Insolvency) No. 755 of 2023

IN THE MATTER OF:

**UTI Employees Sai Samruddhi
Cooperative Housing Society**

...Appellant

Versus

PNB Housing Finance Ltd. & Ors.

...Respondents

Present:

For Appellant : Mr. Partho Sarkar, Advocate.

**For Respondents : Mr. Tishampati Sen, Ms. Riddhi Sancheti, Mr.
Dikshat Mehra, Mr. Chintan Gandhi, Ms. Tasmiya
Taaleha & Mr. Anurag Anand, Advocates for R-4.**

With

Company Appeal (AT) (Insolvency) No. 757 of 2023

IN THE MATTER OF:

**UTI Employees Sai Samruddhi
Cooperative Housing Society**

...Appellant

Versus

Jayash Sangharajka & Ors.

...Respondents

Present:

For Appellant : Mr. Partho Sarkar, Advocate.

**For Respondents : Mr. Tishampati Sen, Ms. Riddhi Sancheti, Mr.
Dikshat Mehra, Mr. Chintan Gandhi, Ms. Tasmiya
Taaleha & Mr. Anurag Anand, Advocates for R-1.**

With

Company Appeal (AT) (Insolvency) No. 758 of 2023

IN THE MATTER OF:

**UTI Employees Sai Samruddhi
Cooperative Housing Society**

...Appellant

Versus

Jayash Sangharajka & Ors.

...Respondents

Present:

For Appellant : Mr. Krishnendu Datta, Sr. Advocate along with Mr. Partho Sarkar.

For Respondents : Mr. Arun Kathpalia, Sr. Advocate along with Mr. Abhijeet Sinha, Mr. Tishampati Sen, Ms. Riddhi Sancheti, Mr. Dikshat Mehra, Mr. Chintan Gandhi, Ms. Tasmiya Taaleha & Mr. Anurag Anand, Mr. Puneet Singh Bindra, Mr. Akshay Doctor, for R-1.

Mr. Aditya Doper & Mr. Kshitij, for R-7.

O R D E R

02.06.2023 These three appeals have been filed by the same Appellant challenging the orders passed by the National Company Law Tribunal, Mumbai Bench – IV in different IA's which were filed by the Appellants.

Company Appeal (AT) (Ins.) No. 758 of 2023 has been filed by the Appellant against the order dated 02.05.2023 passed in I.A. 651 of 2022.

Company Appeal (AT) (Ins.) No. 757 of 2023 has been filed by the Appellant challenging the order dated 02.05.2023 passed in I.A. 2074 of 2022.

Company Appeal (AT) (Ins.) No. 755 of 2023 has been filed by the Appellant challenging the order dated 02.05.2023 passed in I.A. 2232 of 2022.

The Adjudicating Authority by the Impugned Order has dismissed all the I.A's filed by the Appellant. The Appellant aggrieved by the orders and filed the Instant Appeals.

We have heard Learned Senior Counsel appearing on behalf of the Appellant as well as Learned Counsel for the Respondents. The Appellants

submits that the Appellants during hearing of the matter was served a copy of the Resolution Plan, the Appellant being allottee of the land on which development is being carried out are entitled to raise objection to the Plan. However, the Adjudicating Authority in its order dated 02.05.2023 while deciding the I.A. 651 of 2022 has observed that Applicant has no locus to oppose the Plan.

Learned Counsel for the Respondent submits that the different I.A's have been filed by the Appellant with object of delaying the process and the Adjudicating Authority has rightly rejected their Application. The prayer for giving possession to the Applicant as was contained in I.A. 651 of 2022 has been rejected. Since the possession was with the Corporate Debtor and possession cannot be handed over to the Appellant.

Learned Counsel for the Respondent have also supported the orders passed in other I.A's and has referred to the observations and findings of the Adjudicating Authority.

Learned Counsel for Appellant in his Rejoinder submits that the Appellant being stakeholders are entitled to raise objection to the Resolution Plan. Since their rights shall be affected by the Resolution Plan. It is submitted by the Counsel for Appellant that the Appellant shall be satisfied if the Appellant be given an opportunity to file objection to the Resolution Plan and they are heard by the Adjudicating Authority at the time of consideration of the approval of the Resolution Plan.

We are of the view that the Appellant be given an opportunity to file an objection to the Resolution Plan, for which the Appellants are allowed two weeks' time to file objection to the Resolution Plan. Reply to the objections may also be filed within one week further.

The Application for approval of the Resolution Plan being already filed pending the same shall be considered by the Adjudicating Authority along with the objections. Learned Counsel for the Appellant has submitted that the Appellant has never been obstructing the proceedings before the Adjudicating Authority.

We are of the view that apart from the liberty which is being given to the Appellant to file objections, the order passed in other I.A's is upheld. However, we make it clear that objections of the Appellant which is to be filed as per order shall be decided on its merits without being influenced with any observation if this order or any observations made by the Adjudicating Authority.

With these observations, we dispose off all the Appeals.

[Justice Ashok Bhushan]
Chairperson

[Naresh Salecha]
Member (Technical)

Sim/nn