

IN THE NATIONAL COMPANY LAW TRIBUNAL

COURT-V, MUMBAI BENCH

(Under Section 60 (5), of the Insolvency and Bankruptcy Code, 2016 Read with Rule 11 of the National Company Law Tribunal Rules, 2016)

IA 1899 of 2022

Beacon Trusteeship Ltd.

...Financial Creditor/Applicant

Versus

Jayesh Sanghrajka

...Resolution Professional/
Respondent no.1

Adani Goodhomes Private Limited

...Resolution Applicant/
Respondent no.2

In the matter between

C.P. (IB) 1390 OF 2020

Beacon Trusteeship Limited

..... **Financial Creditor**

Versus

Radius Estates and Developers Private Limited

..... **Corporate Debtor**

Order Reserved on: 13.12.2022
Order Pronounced on: 09.01.2023

Coram:

Hon'ble Shri Kuldip Kumar Kareer, Member (Judicial)

Hon'ble Smt. Anuradha Sanjay Bhatia, Member (Technical)

Appearance:

For the Applicant:

Ms. Sneha Jaisingh a/w Mr. Amogh Joshi,
Ms. Aastha Kaushal, Mr. Manan Shah and
Ms. Anshul Singh, Advocates.

For the Resolution

Professional:

Ld. Sr. Counsel Mr. Mustafa Doctor a/w Mr. Nausher Kohli,
Mr. Devesh Juvekar, Mr. Ashish Parwani, Mr. Dikshat
Mehra, Mr. Yash Jain and Mr. Dhrumil Sanghvi, Advocates

For the Resolution

Applicant:

Ld. Senior Counsel Mr. Ravi Kadam a/w Counsel Aditya
Shiralkar, Mr. Denzil Arambhan, Mr. Gaurav Gopal and
Adv. Amisha Patel i/b Wadia Ghandy & Co.

PER: Anuradha Sanjay Bhatia, Member (Technical)

ORDER

1. The above captioned IA 1899 of 2022, filed by Beacon Trusteeship Limited, the Financial Creditor, against the Resolution Professional and the Resolution Applicant, sought a direction that the Resolution Applicant should cease and desist from marketing and branding the Project as an "Adani Project" until the final disposal of this Application.
2. In Prayer Clause (b), a direction has been sought from this Bench to restrain the Resolution Applicant from preferring any action under the provisions of Real Estate (Regulation and Development) Act, 2016 till the approval of the Resolution Plan.
3. Heard the learned Senior Counsel for the Applicant and learned Senior Counsels appearing for Respondent No. 1 and Respondent No. 2.
4. The attention of this Bench was invited to the minutes of the 5th CoC meeting, dated 21.09.2021 which is reproduced below: -

RESOLVED THAT *the Committee of Creditors hereby authorizes the RP and Representative of HDFC, jointly or severally, to do all such acts, deeds*

and things to negotiate, discuss, finalize the terms and conditions of appointments of Adani Infrastructure and Developers Private Limited ("Adani") by MIG (Bandra) Realtors & Builders Pvt. Ltd. ("DB") as a Development Manager for undertaking the construction, management and supervision including the sales and marketing of the Project "Ten BKC" (RERA No. P51800004889), situated at Kalanagar, opp. MHADA, Bandra East, Mumbai – 400051 ("Project")

RESOLVED FURTHER THAT *the documents finalized by the RP and HDFC acting jointly with the RP, containing terms and conditions of appointment of Adani as Development Manager shall be placed before the CoC for its consideration and approval.*

5. It is very clear from the Minutes of the above meeting of the CoC that the Resolution Applicant was authorized to act as a Development Manager for undertaking the construction, management and supervision **including sales and marketing of the project.**
6. Respondent No. 1 submitted that the disputed construction management agreement was approved by the CoC, along with the Resolution Plan, with the majority voting of 83.93% on December 27, 2021. He further submitted that the present Application is filed at a belated stage, i.e., 7 months after the approval of the Resolution Plan by CoC and the Construction Management Agreement by the CoC and, therefore, the same deserves to be dismissed. In any case, since the Resolution Plan is being approved by this Bench by an order of even date, this Bench is of the considered opinion that there is no merit in the Application which has been rendered **infructuous** and is **dismissed** accordingly.

Sd/-
ANURADHA SANJAY BHATIA
MEMBER (TECHNICAL)

Sd/-
KULDIP KUMAR KAREER
MEMBER (JUDICIAL)