



NATIONAL COMPANY LAW TRIBUNAL, MUMBAI BENCH
COURT III

2. I.A. 2938/2021

IN

C.P.(IB)-4412(MB)/2019

CORAM: SHRI H.V. SUBBA RAO, MEMBER (J)
SHRI CHANDRA BHAN SINGH, MEMBER (T)

ORDER SHEET OF THE HEARING OF MUMBAI BENCH OF THE NATIONAL
COMPANY LAW TRIBUNAL ON **09.02.2022**

NAME OF THE PARTIES: IDBI Trusteeship Services Limited

V/s

Nirmal Lifestyle Limited.

SECTION 7 OF INSOLVENCY AND BANKRUPTCY CODE, 2016

ORDER

Counsel for the Resolution Professional, Mr. Amit Tungare, counsel for the Secure Financial Creditor, Mr. Darshit Dave and counsel for the Respondent, Mr. Suri Shikhil Shiv are present through virtual hearing.

I.A. 2938/2021

The above I.A. is filed by the IRP under section 12A of the Code for withdrawal of the CIRP order dated 05th August 2021 passed against the Corporate Debtor in view of the settlement entered into between the Financial Creditor and the Corporate Debtor by executing a separate consent terms. It is the submission of the IRP that no COC has been constituted so far, in view of the stay granted by the Hon'ble NCLAT and the IRP has received the entire fee and expenses in the above matter and prayed for allowing the above Application.

Mr. Darshit Dave representing one of the Secured Financial Creditot M/s. SREI Equipment Finance Limited who has filed separate Company Petition in CP No. 8091/2021 on the file of Court No. V Mumbai Bench opposed, allowing the above Application on the ground that the above Company Petition filed by them is pending.



The Objection of the Objector is not legally sustainable as he has already filed Company Petition and pursuing his remedy against the Corporate Debtor.

Mr. Suri Shikhil Shiv representing individual home buyers Mr. Girish Manghwami and Mr. Deepak Manghwani opposed, allowing the above Application on the ground that his clients have a claim of around 5 crores against the Corporate Debtor.

The objection of the individual home buyers is also not legally sustainable as they are at liberty to initiate appropriate legal action against the Corporate Debtor by filing separate Company Petition if they meet the eligibility criteria under section 7 of the Code. Therefore, the objection of both the objectors is legally not sustainable and liable to be rejected.

After hearing the submissions on both sides and upon perusing the record, this Bench is of the considered opinion that the above Company Petition deserves to be allowed disregarding the above objections as the Corporate Debtor has entered into settlement with the Financial Creditor at whose behest the above Company Petition is filed. Accordingly, the above I.A. is allowed and the CIRP admission order dated 05th August 2021 passed by this Bench against the Corporate Debtor is withdrawn by releasing the Corporate Debtor from all rigours of moratorium.

Sd/-
CHANDRA BHAN SINGH
Member (Technical)

Sd/-
H.V. SUBBA RAO
Member (Judicial)