



**IN THE NATIONAL COMPANY LAW TRIBUNAL
NEW DELHI COURT-III**

ITEM No. 01

IA-4985/2022

In

IB-266(ND)/2019

IN THE MATTER OF:

Mr. R Tarkeshwar Narayan

..... Financial Creditor

VERSUS

M/s. Horizon Buildcon Private Limited

..... Corporate Debtor

Order under Section 60(5) of the IBC, 2016.

Order delivered on 13.09.2023

CORAM:

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

**SHRI ATUL CHATURVEDI
HON'BLE MEMBER (TECHNICAL)**

PRESENT:

For the Applicant :

For the RP :

ORDER

Order pronounced in open court vide separate sheets.

IA-4985/2022 is dismissed.

-SD-

**(ATUL CHATURVEDI)
MEMBER (TECHNICAL)**

-SD-

**(BACHU VENKAT BALARAM DAS)
MEMBER (JUDICIAL)**



**IN THE NATIONAL COMPANY LAW TRIBUNAL
NEW DELHI, COURT-III**

IA-4985/2022

In

IB-266(ND)/2019

IN THE MATTER OF IB-266(ND)/2019:

Mr. R TARKESHWAR NARAYAN

..... Financial Creditor

VERSUS

M/s. HORIZON BUILDCON PRIVATE LIMITED

.....Corporate Debtor

IN THE MATTER OF IA-4985/2022:

Ms. SHREYA GAIKWAD

..... Applicant

VERSUS

Mr. ANIL TAYAL

Resolution Professional of the Corporate Debtor

..... Respondent

Order Delivered On: 13.09.2023

CORAM:

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

SHRI ATUL CHATURVEDI, HON'BLE MEMBER (TECHNICAL)

APPEARANCES:

- For the Applicant : Mr. Arjun Syal, Mr. Shreyan Das in IA 1498/2023,
Mr. Ajay Gaggar, Ms. Rakhi Purnima Paul, Mr.
Robin Sirohi, Mr. Yashwant Sirohi, Advs.
- For Ex-Management : Ms. Nattasha Garg, Mr. Thakur Ankit Singh, Advs.
- For the RP : Mr. Abhishek Anand, Mr. Mohak Shamra, Mr.
Supriyo, Banerjee, Mr. Sajal Jain, Advs.

ORDER

PER: BACHU VENKAT BALARAM DAS, MEMBER (JUDICIAL)

Brief Background of the Case

1. An application under section 7 of the Insolvency and Bankruptcy Code, 2016 ("IBC") was filed by the Financial Creditor i.e., Mr. R Tarkeshwar Narayan against the Corporate Debtor i.e., M/s. Horizon

IA-4985/2022 In IB-266(ND)/2019

Date of Order: 13.09.2023



Buildcon Private Limited and the said application was admitted by the order of this Adjudicating Authority vide order dated 08.11.2019 and we declared moratorium and Mr. Sanjay Gupta was appointed as an Interim Resolution Professional.

2. The Resolution Plan was submitted by the Successful Resolution Applicant namely IRIDIA Home Buyers Association which was approved by the CoC in its 12th meeting dated 06.10.2022 under Section 30(4) of the IBC by 69.38% voting share in respect of the CIRP of the Corporate Debtor after considering its feasibility and viability.
3. The present Application has been filed by Ms. Shreya Gaikwad, the Applicant (Single Homebuyer/Financial Creditor) on 11.10.2022 under Section 60(5) of the Insolvency and Bankruptcy Code, 2016 before this Adjudicating Authority, for seeking the following reliefs:
 - “a. Direct the Respondent of the Corporate Debtor, to accept the claim of the Applicant herein and;*
 - b. Pass any other order which this Hon'ble Tribunal may deem fit in the eyes of equity, justice and good conscience”*
4. It is the case of the Applicant that the Applicant became a member of the Society vide Share Certificate dated 25.08.2013 bearing serial no. 436. The Applicant was then allotted a unit in the Project bearing no. RED/407 bearing size of 970 Sq. Ft. vide allotment letter 15.05.2014 issued by the Society "in association" with the Corporate Debtor. The Applicant made a payment of Rs. 12,73,610/- (Rupees Twelve Lakh Seventy Three Thousand Six Hundred and Ten Only) between August and September 2013 in consideration of the allotment of the aforementioned unit.
5. The Resolution Professional has submitted in the Reply Affidavit dated 18.01.2023 that the Answering Respondent only has the power to collate and verify the claims and cannot in any manner determine the same. In the present case, the Answering Respondent has not been able to verify the claim of the Applicant from the books and records of the Corporate Debtor, and accordingly, the Answering Respondent has



apprised the Applicant that the Corporate Debtor does not owe any dues to the Applicant as the Applicant is not the creditor in a class of the Corporate Debtor.

6. The Applicant entered into a contract with M/s. Kaveri Sahakari Awas Samiti Ltd. ("KSASL") and has not entered into any agreement with the Corporate Debtor to qualify the transaction as a Financial Debt within the meaning of Section 5(8) of the Code. However, upon verification and collation of the documents provided by the Applicant herein, the claim cannot be admitted as the Applicant does not fall in the category of the Creditors of the Corporate Debtor.
7. We have heard the Ld. Counsels appearing for both parties and also perused the documents on record.
8. The Applicant filed the claim on 10.09.2022 and the Resolution Professional rejected the Claim of the Applicant vide email dated 22.09.2022 on the grounds that the Applicant has no transaction with the Corporate Debtor. The Resolution Plan was approved by the Committee of Creditors in the 12th meeting convened on 06.10.2022 however, the Applicant has filed the present Application (11.10.2022) only after the approval of the Resolution Plan.
9. We find that the Applicant is neither a part of the class of creditors nor has any agreement with the Corporate Debtor nor paid any money to the Corporate Debtor.
10. In the judgment passed by Hon'ble NCLAT in the case of **Puneet Kaur versus M/s. K.V. Developers Private Limited** Company Appeal (AT) (Insolvency) No. 390 of 2022 dated 01.06.2022, it has been held that claim filed after the approval of the Plan by the Committee of Creditors (CoC) or the CoC at the final stage of approving the Resolution Plan cannot be admitted.
11. In view of the above position of law as laid down by the Hon'ble NCLAT in the case of Puneet Kaur (supra) the claim of the present Applicant which has been filed after the final stage of approving the Resolution Plan by the Committee of Creditors cannot be entertained or admitted.



12. Coming to the factual matrix of the present Application, It is a settled law that once the Resolution Plan has been approved by the CoC, the Adjudicating Authority can't go back to look into the integrities involved in the CIRP of the Corporate Debtor. Therefore, this Adjudicating Authority cannot entertain the present Application which is devoid of merits and not sustainable. The Applicant has no locus standi to file the present Application and is attempting to derail or delay the present CIRP proceedings of the Corporate Debtor.
13. We are of the considered view that if such claims are allowed, then this Adjudicating Authority will continue to receive further such applications and the case will never reach resolution. Further, it will also cause a hurdle to the Successful Resolution Applicant in executing the Resolution Plan.
14. In view of the above, the IA-4985/2022 stands **dismissed**.

-SD-

**(ATUL CHATURVEDI)
MEMBER (TECHNICAL)**

-SD-

**(BACHU VENKAT BALARAM DAS)
MEMBER (JUDICIAL)**