



IN THE NATIONAL COMPANY LAW TRIBUNAL
KOCHI BENCH
KOCHI

IA (IBC) No. 70/KOB/2023

In

C.P (IB) No. 01/KOB/2021

In the Matter of:

Application filed under Section 60 (5) of the Insolvency and Bankruptcy Code, 2016 read with rule 11 of NCLT Rules, 2016

-And-

In the Matter of:

1. **Nucleus Raymount Villa and Apartment**, Owners Association;

2. **Riva Apartment** Owners Association;

... Applicants

-Versus-

Mr. Dileep K.P, Resolution Professional Nucleus Premium Properties Pvt Ltd,
Veluthedath House, Ponnurunni , Vyttila P.O, Kochi- 682019

...Respondent

-In-

In the Matter of:

Anoop John, Blessy and Ors;

...Financial Creditor

-Versus-

Nucleus Premium Properties Pvt. Ltd

...Corporate Debtor

Coram:

Shri P. Mohan Raj : Member (Judicial)

Shri Satya Ranjan Prasad : Member (Technical)

Appearances (through video conference):

For the Applicant : Mr. Sankar P. Panicker, Adv.

For the Respondent/RP : Mr. N.R. Krishnan Unni, Adv



Order reserved on: 22.02.2023
Order pronounced on: 17.03.2023

ORDER

1. This is an application filed by two Apartment owners' Associations against the Resolution professional for direction directing the Resolution professional to convene the meeting of COC to discuss about the proposed revised plan.
2. The corporate debtor was admitted into CIRP on 18.11.2021 and the respondent was appointed as IRP then appointed as RP. In the course of Resolution process, the resolution plan received was rejected in the 6th COC with 100% voting on 23.09.2022. Then the respondent obtained consent of this Adjudicating Authority to receive application on the ProjectWise resolution in terms of Regulation 37(m) of IBIB Regulations. In response to publication of inviting Expression of interest, two holistic plans were found to be in compliance with the IBC 2016. Both the plan was failed to secure more than 50% voting share in the voting held on 28.01.2023 and 29.01.2023. The plan which secured highest vote was again put on re-voting on 02.02.2023 and 03.02.2023 but the plan not secured required vote. When both the plans were not got through and R.P. exhausted maximum period of 450 days, in the 10th COC meeting held on 04.02.2023 it was resolved to file an application for liquidation, accordingly the respondent filed application I.A. No.74 /KOB/2022 under section 33(1) of IBC 2016 for liquidation. At this stage this application has been filed to direct the respondent to convene the COC meeting to consider the proposed modified Resolution plan.
3. In the 10th COC meeting it is resolved to file an application for liquidation of corporate debtor accordingly application also filed. Now the plea of the applicant for direction to Respondent to convene the COC is against the resolution passed in 10th COC meeting. It is the commercial wisdom of the



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COC to decide, further already maximum period of 450 days already exhausted. No direction can be issued anticipating that the PRA will submit revised plan which is acceptable to COC. Already sufficient time was granted and exhausted. It is the prerogative of the RP to convene the COC as and when required, but no direction can be issued at the request of outsider. Further no case is made out by the applicants to concede their request.

In consequence this application is **Dismissed**.

4. The Registry is directed to send e-mail copies of the order forthwith to all the parties and their Ld. Counsel for information and for taking necessary steps,
5. Certified Copy of this order may be issued, if applied for, upon compliance of all requisite formalities.

SATYARANJAN PRASAD Digitally signed by SATYARANJAN PRASAD
Date: 2023.03.17 15:58:18 +05'30'

Satya Ranjan Prasad
Member (Technical)

PANDIAN MOHAN RAJ Digitally signed by PANDIAN
MOHAN RAJ
Date: 2023.03.17 15:16:07 +05'30'

P. Mohan Raj
Member (Judicial)

Signed on this 17th day of March, 2023.

Supriya_P.S