

**IN THE NATIONAL COMPANY LAW TRIBUNAL,  
DIVISION BENCH - II, CHENNAI**

**IA(IBC)/978 (CHE)/2023**

**In  
IBA/812/2020**

*(filed under Section 60(5) of Insolvency and Bankruptcy Code, 2016 r/w  
NCLT Rules, 2016)*

*In the matter of **JBM HOMES PRIVATE LIMITED***

**LAKSHITA S JAIN,**  
86, Walltax Road,  
TVN Square, 1<sup>st</sup> Floor,  
Near SBI Bank, Chennai – 600 003.

*... Applicant*

-Vs-

**MR. THARUVAI RAMACHANDRAN RAVICHANDRAN,**  
Resolution Professional of,  
JBM Homes Private Limited,  
No.27, 3<sup>rd</sup> Floor, 15  
Kasturibai Nagar, 1<sup>st</sup> Main Road,  
Adyar (above PNB), Chennai – 600 020

*... Respondent*

*Order Pronounced on **09<sup>th</sup> August 2023***

CORAM

**SANJIV JAIN, MEMBER (JUDICIAL)  
SAMEER KAKAR, MEMBER (TECHNICAL)**

Present: -

*For Petitioner: Mr.S.Ravi, Sr.Advocate*

*For Respondent: Mr.S.Sathyanarayanan, Advocate*

**ORDER**

(Hearing Conducted through VC)

**Per: SAMEER KAKAR, MEMBER (TECHNICAL)**

This application has been filed by Ms. **LAKSHITA S JAIN** under  
Section 60(5) of the Insolvency Bankruptcy Code, 2016 r/w Rule  
11 of NCLT Rules, 2016 seeking the following reliefs: -

a) Direct the Respondent to admit the claim of the Applicant to the tune of Rs. 84,36,000/- and continue to treat the Applicant as a Secured Creditor of the CD under the class of homebuyers as per the List of Claims updated as on 08/05/2022;

b) Direct the Respondent to take steps to register 348 sq.ft of the Undivided Share of Land in the Subject Property in favour of the Applicant as per each of the two Agreements of Sale dated 02/04/2021 respectively within a time-frame to be fixed by this Tribunal;

2. It is stated that the Applicant had given a loan of Rs.78.5 Lakh to JBM Shelters Private Limited (JBM Shelters) on 01.04.2014. Certain repayments were made by JBM Shelters towards the above loan. The Outstanding as on 31.03.2020 is Rs.1,19,28,236/-.

3. It is stated that since JBM Shelters was unable to pay the above loan amount it agreed to allot 2 flats (Value Rs.84.36 lakh) in the 'GST grand' project developed by JBM Homes Private Limited (JBM Homes). Accordingly, two Agreements of Sale dated 02.04.2021 were entered into between the applicant JBM Shelters and JBM Homes for the sale of 348 Sq.Ft. of Undivided Share of Land in the Subject property.

4. Subsequently, two Agreements for construction dated 02.04.2021 were entered into between the parties for constructing

Flat No.E on the 9<sup>th</sup> floor and Flat No.F in the 8<sup>th</sup> Floor of the Building.

5. It is stated that both companies were admitted to CIRP on 07.09.2021. The Applicant was unable to register the UDS of the flats. Consequently, the applicant filed a claim before the RP on 08.01.2022. Since there is no response from the RP, she sent a letter to the Ex-Director on 15.05.2022. The Ex-Director vide reply dated 17.05.2022 confirmed that her claim was admitted as financial creditor annexing list of claims updated on 08.05.2022.

6. Pursuant to that, the Applicant contacted the RP vide letter dated 03.05.2023 and also visited personally to communicate the same. The RP vide letter dated 10.05.2023 replied that he had asked for some additional details in the claim submitted by the applicant vide e-mail dated 18.01.2022 which are not given. It is alleged that no such e-mail was received from the RP.

7. It is stated that the RP had replied to the Applicant that the Ex-Directors have confirmed that they have not sold any flat to the Applicant and no records are there with respect to sale agreements or payment towards CD. Aggrieved by the response of the RP the Applicant has preferred this application.

8. In response, the Respondent has submitted that vide e-mail dated 18.01.2022, the RP had requested additional details from the

applicant which she failed to provide. The e-mail was sent to the same e-mail ID through which the Applicant had filed her claim. He have also annexed the copy of said e-mail in the counter statement filed on 23.06.2023.

9. It is stated that the amount claimed by the Applicant is recorded as an unsecured loan in the books of JBM Shelters and the same is reflected in the balance sheet of the JBM Shelters for the Financial Years 2020-21 and 2021-22.

10. It is further stated that in the list of Flats provided by the Ex-Directors of JBM Shelters, the Flats claimed by the Applicant are marked as unsold flats. Making the above submissions the Respondent sought dismissal of the application.

11. Having heard the submissions of the Ld. Counsels this Tribunal vide order dated 03.07.2023 had sought clarifications with respect to, proof of payment from the Applicant and updated claim list from the Resolution Professional.

12. In turn, both the applicant and the RP have filed their responses with respective documents vide memos dated 13.07.2023 and 18.07.2023.

13. In the memo filed by the Applicant, it is stated that since 2010, Rs.85,50,000/- had been disbursed as follows,

Date of Disbursal	Amount in Rs.
15.10.2010	33,00,000
06.01.2012	12,50,000
01.04.2012	25,00,000
01.04.2012	15,00,000
<b>Total</b>	<b>85,50,000</b>

Respective ledger records and bank statements of the above disbursement have been placed on record. Upon perusal of the same, It is seen that JBM Shelters had repaid some amount to the Applicant. As per the ledger extract on page 23 of the application, the Outstanding as on 31.03.2020 is Rs.1,19,28,236/- due towards the Applicant. Hence, it is clear that the Applicant had advanced money to JBM Shelters.

14. In para 4(m) at page 5 of Counter-Statement, it was admitted by the RP that '*the Applicant is an unsecured Creditor in the books of JBM Shelters as at 31.03.2021 and continues so till date.*'

15. In the Sale Agreements dated 02.04.2021, JBM Shelters and JBM Homes have been shown as parties to the Agreement. They have also signed the Agreements with their official seal.

16. In the Construction Agreements dated 02.04.2021 entered into between JBM Homes and the Applicant, Rs.41,41,115/- has been agreed as a consideration for constructing each Flat at 8<sup>th</sup> and 9<sup>th</sup> floor in the GST Grand Project.

17. In the memo dated 13.07.2023, the Applicant has stated that a sum of Rs.12,18,000/- was adjusted under each of the two Sale Agreements dated 02.04.2021. Further, Rs.30,00,000/- was adjusted under each of the Construction Agreements dated 02.04.2021. Therefore, total of Rs.84,36,000/-, dues of the Respondent, were discharged as a consideration to the aforesaid two flats. The above said claim was filed in the Form-F submitted by the Applicant.

18. It is seen that the Respondent had sought clarification to the Form-F submitted by the Applicant vide e-mail dated 18.01.2022. Though it was denied by the Applicant, in page 174 of the Application and page 68 of the Counter the said e-mail has been annexed. On perusal, we find that it was sent to the same e-mail ID from which the Applicant had filed her claim in Form-F. It is thus, clear that the RP had requested further clarification in Form-F, which is very well in the knowledge of the Applicant.

19. Be that as it may, we see that the updated list of claims of both JBM Homes and JBM Shelters was updated on the IBBI website on 19.01.2022 just one day after the aforesaid e-mail seeking clarification from the Applicant.

20. It is admitted fact that the Applicant is the RP for both JBM Homes and JBM Shelters. It is also admitted in the counter that in

the books of JBM Shelters, the Applicant is included as an unsecured creditor. Upon checking the list of claims dated 19.01.2022 of both JBM Homes and JBM Shelters the claim of the Applicant has not been reflected in the JBM Shelters claim list as unsecured creditor. Further, the RP has not advised the Applicant to file a claim in JBM Shelters. Moreover, it is seen from the minutes, that the CoC in the meeting conducted after 19.01.2022, did not discussed about the claim of the Applicant.

21. The next thing to be adverted into is the list of claims dated 08.05.2022 sent by the Ex-Director of JBM Homes to the Applicant. Ld. Counsel for the RP has submitted that it is not the final list of claims, the final list of claims is updated only till 19.01.2022 which was updated on the IBBI website.

22. Be that as it may, in para 4 b of the counter the updated claim after verification is presented as follows,

Sl. No.	Creditor	Claim Amount Admitted in Rs.	Voting %
1.	LICHFL Trustee Company Limited	98,64,37,800	90.05%
2.	Reliance Home Finance Company Ltd	64854691	5.92%
3.	Home Buyers	57475613	4.03%
	<b>Total</b>		<b>100%</b>

In the list of claims dated 08.05.2022 placed in the application, the verified claims are recorded as follows,

165

## JBM HOMES PRIVATE LIMITED – CLAIMS UPDATED – May 8, 2022

## a. Financial Creditors - Secured

SINo	Name of the Claimant	Amount Claimed INR	Amount Admitted INR
1	LICHFL Trustee Company Limited	98,64,37,800	98,64,37,800
2	Reliance Home Finance Limited	6,48,54,691	6,48,54,691
	<b>TOTAL</b>	<b>1,05,12,92,491</b>	<b>1,05,12,92,491</b>

## b. Financial Creditors – in Class (Home Buyers)

1	Nishanthini Thinakaran	55,18,050	55,18,050
2	Lavanya & Vinod	29,00,000	5,00,000
3	Sankar Bhoopalan	25,00,000	25,00,000
4	Saleem Mohammed (com)	29,37,500	29,37,500
5	Saleem Mohammed (Res)	9,09,050	9,09,050
6	Gowtham Chandran K	7,61,000	7,61,000
7	Mohammed Arneen Sheerin Sitara	3,00,000	3,00,000
8	Aayush Srisrimal	15,00,000	15,00,000
9	Aayush Srisrimal	15,00,000	15,00,000
10	Aayush Srisrimal	15,00,000	15,00,000
11	S Soundararajan	21,81,900	21,48,900
12	Vanaja Devanathan	25,99,000	25,99,000
13	Lily Arul Sharmila	17,00,000	17,00,000
14	Poongavanam D	5,10,000	5,10,000
15	S P Shivsakthi	59,00,000	59,00,000
16	Deepak Kumar	45,38,638	36,96,000
17	Mamatha Devi	29,95,000	29,95,000
18	Lakshita Jain	84,36,000	84,36,000
19	V Biju	48,50,000	48,50,000
20	Arnudha S	5,00,000	5,00,000
21	Revathi P	5,00,000	5,00,000

166

22	Meena Jain	5715113.14	5715113.14
	<b>TOTAL</b>	<b>6,07,51,251</b>	<b>5,74,75,613</b>

Comparing the claim amounts from the above extracts, we find that the claim amount of Financial Creditors and Home Buyers in the counter is exactly matching with claim amount marked in the list of claims dated 08.05.202 which includes Applicant's name in Home Buyers class.

23. Thus, it is clear that the RP had considered and included in the updated list of claims dated 08.05.2022, which was neither circulated nor updated on the IBBI website. Further, RP has not taken any steps to discuss about the claim of the Applicant in the meetings of the CoC with respect to acceptance or rejection of claim. On the other hand, the Applicant has placed proper proofs for the transactions entered into between JBM Homes and JBM Shelters. In such circumstances, this Tribunal finds the balance of convenience lies in favour of the Applicant and this application deserves to be admitted. We therefore allow the application.

24. This Tribunal directs the Respondent / Resolution Professional of JBM Homes,

a) to admit the claim of the Applicant as Home Buyer and to include her in the list of Home Buyers.

b) to take necessary steps to register the respective UDSs as per the Sale Agreements dated 02.04.2021 in favour of the Applicant, as amended as per law.

25. Accordingly, with above said directions this application stands **disposed off**.



**SAMEER KAKAR**  
MEMBER (TECHNICAL)



**SANJIV JAIN**  
MEMBER (JUDICIAL)

*Gopishankar.D*