

**THE NATIONAL COMPANY LAW TRIBUNAL
CHANDIGARH BENCH, CHANDIGARH
(Exercising powers of Adjudicating Authority under
the Insolvency and Bankruptcy Code, 2016)
(through web-based video conferencing platform)**

**IA No.1584/23
In
CP (IB) No. 248/Chd/Chd/2019
(admitted)
Under Section 60(5) of IBC, 2016**

In the matter of:

Kone Elevators India Pvt. Ltd.

....Petitioner/Operational Creditor

Versus

Chandigarh Overseas Pvt. Ltd.

....Respondent/Corporate Debtor

And in the matter of IA No. 1584/23

Amarjeet Singh & 55 others.

...Applicants

Vs.

1. Tejinder Pal Setia & Ors.
Member of Suspended Board of Directors,
Corporate Debtor/Chandigarh Overseas Pvt. Ltd.
R/o 131, A-Block, Meera Bagh,

2. Chandigarh Overseas Pvt. Ltd.
Through its IRP Mr. Arvind Kumar,
SCO No.249, Basement,
Sector-44 -C, Chandigarh

3. Sanjeev Chadha
S/o Ramesh Chadha
Resident of House No.1105, Sector 21-B,
Chandigarh

...Respondents

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(admitted)

Order delivered on: 25 .07.2023

**Coram: HON'BLE MR. HARNAM SINGH THAKUR, MEMBER (JUDICIAL)
HON'BLE MR. SUBRATA KUMAR DASH, MEMBER (TECHNICAL)**

Present through Video Conferencing :

For applicants in
IA Nos. 1584/23 : Mr. Puneet Bali, Senior Advocate
Ms. Sanya Thakur, Advocate
Mr. Veer Singh, Advocate

For respondent : Mr. Mohit Chaudhary Advocate
Mr. Prakhar Mithal, Advocate

Per: Harnam Singh Thakur, Member (Judicial)

ORDER

IA No. 1584/2023

This application has been filed on behalf of the allottees/home buyers under Rule 11 of National Company Law Tribunal Rules, 2016, seeking, impleadment in IA No.1571/23 in CP (IB) No. 248/Chd/Chd/2019 as intervenor-necessary party.

2. The brief facts of the application are that the suspended director of the corporate debtor has filed a section 12A of the Insolvency and Bankruptcy Code,2016 application for the withdrawal of the application under Section 9 of the Insolvency and Bankruptcy Code,2016 which has been admitted vide order dated 27.02.2023 by this Adjudicating Authority. There are 55 home buyers and seven allottees have signed the application on their behalf. The corporate debtor is a private limited company and developing fashion technology Park

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(admitted)

being mix project having commercial, industrial and residential areas. The project was sanctioned by Punjab government in 2005 vide eligibility certificate dated 18.01.2005. The project is constructed on 13.75 acres of land and the applicants approached the corporate debtor for purchasing and buying perspective properties in the project. Allotment letters were executed between the parties. The allottees made 90% to 100% payment of their perspective property to the corporate debtor and corporate debtor promised to give the delivery of possession of units as early as 2010 but till date the possession has not been handed over. After the admission order by this adjudicating authority, suspended director proceeded to file an appeal against the order dated 27.02.2023 before the Hon'ble National Company Law Appellate Tribunal, New Delhi and liberty to file an intervention application was granted. The appeal filed by suspended director was dismissed and further appeal before the Honourable Supreme Court was filed. Now, suspended director has filed an application for withdrawal of the admitted application under section 12A of the Insolvency and Bankruptcy Code, 2016. It is submitted that neither any settlement has been entered into with the assignee of debt, Shri Sanjeev Chadha nor has the application has been filed through the IRP. Many of the allottees have filed a claim to the IRP.

3. The written submissions were filed by Respondent No.3 vide Dairy No. 724 dated 20/7/2023.

4. This application has been opposed by learned counsel for the applicant in IA No.1571/23. It is contended by Sh. Mohit Chaudhary, Advocate

that home buyers/intervenors are not necessary parties in the application for withdrawal filed under Section 12A of the Insolvency and Bankruptcy Code, 2016.

5. After hearing learned counsel for the parties and careful perusal of the fact that the present applicants/home buyers have already filed petition under Section 7 of the Insolvency and Bankruptcy Code, 2016 and is pending for consideration before this Bench. Thus, they are also stakeholders in the present application as well.

6. It is pertinent to note that even in the Company Appeal (AT) (Insolvency) No. 262 of 2023 filed before the Hon'ble National Company Law Appellate Tribunal, Principal Bench, New Delhi, the Home-buyers have been allowed to be impleaded as intervenors. Keeping in view the facts and circumstances, this application is allowed in the interest of justice, and home-buyers are impleaded as parties in IA No.1571/23 and disposed of accordingly.

sd/-
(Subrata Kumar Dash)
Member (Technical)

sd/-
(Harnam Singh Thakur)
Member (Judicial)

July 25, 2023
SD/TBG