

**NATIONAL COMPANY LAW APPELLATE TRIBUNAL**  
**PRINCIPAL BENCH, NEW DELHI**

**Company Appeal (AT) (Insolvency) No. 2135 of 2024**

**&**

**I.A. No. 7778 & 7957 of 2024**

**IN THE MATTER OF:**

**Somnath Barik & Ors.**

**...Appellants**

**Versus**

**Sarvottam Realcon (Pvt.) Ltd. & Ors.**

**...Respondents**

**Present:**

**For Appellants : Present but appearance not marked.**

**For Respondents : Mr. Ankur Mittal, Ms. Yashika Sharma and Ms. Sabhya Jain, Advocates for RP.**

**Mr. Palash S. Singhai, Advocates for R-3.**

**Mr. Kunal Godhwani and Ms. Kinjal Chadha,  
Advocates for R-2.**

**O R D E R**  
**(Hybrid Mode)**

**05.12.2024:**      **I.A. No. 7957/2024**

**1.** This is an Application praying for condonation of 12 days delay in filing the Appeal.

**2.** The ground taken in the Affidavit is that the free copy of the Order was made available to the Appellant on 05.08.2024 and thereafter time was taken in arranging all the documents which consumed some time.

Cause shown sufficient. Delay condoned.

**I.A. No. 7778/2024**

**1.** This is an Application praying for condonation of 35 days delay in refiling the Appeal.

**2.** Cause shown in the Application is that after the defects were communicated on 27.09.2024, the defects were removed and further certain

more defects were communicated which could not be immediately cured on account of Durga Pooja Holidays.

Cause shown sufficient. Refiling delay condoned.

**Comp. App. (AT) (Ins.) No. 2135/2024**

1. This Appeal has been filed by the Appellant challenging the Order dated 30.07.2024 passed by the Adjudicating Authority in I.A. No. 4907(ND)/2021 in CP No. IB 901(ND)/2020.
2. By the I.A., Appellant has prayed for reliefs as has been quoted by the Adjudicating Authority in Paragraph 1 of the Order, which is to the following effect:

*“a) Declare that the land owned, by the ALT Society cannot be part of insolvency proceedings as the land in question is not part of the MoU entered into between the Corporate Debtor and the ALT Society;*

*b) declare that the ALT Society is not a Financial Creditor of the Corporate Debtor within the meaning of Section 5(8) of the Code; and*

*c) declare that Mr. Vijendra Singh - acting as Secretary and Mr. Shailendra Singh Rautela- acting as President are not authorized persons entitled to represent the members of ALT Society as they are not elected members as per law;*

*d) declare that Qmkara Asset Reconstruction Ltd. cannot claim any right, title or interest in the land as per loan agreement as there is a legal bar on thy Society to pledge the land of the society to any third party;*

*e) pass an ex-parte order directing the IRP to share the claim form with supporting documents filed by ALT Samiti with the Applicant;*

*f) pass such other or further order/ order(s) as may be deemed fit and proper in the facts and circumstances of the instant case.”*

**3.** Counsel for the Appellant claimed that they are the Members of the ALT Sahkari Awas Samiti Limited, which is the landowners. It is submitted that there were 182 Members and Appellants are not getting the flats.

**4.** Counsel for the Respondent submits that by Order of the same date 30.07.2024, Resolution Plan of the Corporate Debtor who was the Developer of the Assets in question has been approved and the Plan provides for the benefit to the Members of the society as well as Developers which has also been noted by the Adjudicating Authority in Paragraph 13 of the Order.

**5.** The Resolution Plan having been approved by the Adjudicating Authority by the Order of the same date, which Order is not under challenge, we are of the view that no relief can be granted to the Appellant in the Application which has been dismissed by the Adjudicating Authority by the Impugned Order. The Plan having been approved it is binding on all including the Members of the society as per Section 31(1), we thus are of the view that no relief can be granted to the Appellant.

**6.** Counsel for the Appellant submits that Appellant may be granted liberty to challenge the Plan approval Order, we are of the view that in the present case, there is no occasion to grant any liberty to the Appellant.

The Appeal is dismissed.

**[Justice Ashok Bhushan]**  
**Chairperson**

**[Arun Baroka]**  
**Member (Technical)**

*himanshu/nn*