



DIVISION BENCH
COURT - II

O-202

**NATIONAL COMPANY LAW TRIBUNAL
KOLKATA BENCH
KOLKATA**

C.P. (IB)/1062(KB)2019
IA(I.B.C)/2236(KB)2024, IA(I.B.C)/1105(KB)2023,
IA(IBC)(PLAN)/4(KB)2024, IA(I.B.C)/325(KB)2021,
IA(I.B.C)/488(KB)2024, IA(I.B.C)/26(KB)2022,
IA(I.B.C)/572(KB)2022, IA(I.B.C)/581(KB)2022,
IA(I.B.C)/365(KB)2022, IA(I.B.C)/406(KB)2022

**CORAM: 1. HON'BLE MEMBER(J), SMT. BIDISHA BANERJEE
2. HON'BLE MEMBER(T), SHRI D. ARVIND**

ORDER SHEET OF THE HEARING ON 03RD DECEMBER 2024

IN THE MATTER OF	DIPAK BHADRA VS RCBS REALTY PRIVATE LIMITED
UNDER SECTION	IBC UNDER SEC 7

Appearance (via video conferencing/physically)

Mr. Kuldip Mallik, Adv.] For the Applicant in IA(I.B.C)/2236(KB)2024
Mr. Atul Sureka, Adv.] IA(I.B.C)/365(KB)2022 and IA(I.B.C)/572(KB)2022

Mr. D. Dasgupta, Adv.] For the Applicant in IA(I.B.C)/1105(KB)2023
Ms. Rupal Singh, Adv.]
Mr. Ashok Kr. Singh, Adv.]

Ms. Tanushree Sogani, Adv.] For the Applicant in IA(I.B.C)/581(KB)2022
Mr. Kunal Kanungo, Adv.]

Ms. Manju Bhuteria, Sr. Adv.] For the Suspended Board of Directors
Ms. Tanvi Luhariwala, Adv.]
Mr. Anirudhya Dutta, Adv.]

Mr. Shaunak Mitra, Adv.] For the Resolution Professional
Mr. Dripto Sen, Adv.]
Mr. Rajat Mukherjee] RP-in-Person

Ms. Shreya Choudhary, Adv.] For the Authorised Representative of Plot Buyers
Ms. Rachna Jhunjunwala] Authorized representative

Mr. Aritra Basu, Adv.] For the Successful Resolution Applicant
Ms. Sonia Sharma, Adv.]

Ar. [steno]

O R D E R

1. Ld. Sr. Counsel/Counsel/Authorised Representative appearing on behalf of the parties present.

2. **IA(I.B.C)/2236(KB)2024:**

a. This IA has been filed by Mr. Rajat Mukherjee, the Applicant under Sections 22 & 60(5) of the Insolvency and Bankruptcy Code, 2016 (“IB Code”) read with Regulation 22A of IBBI(IP) Regulation, 2016 and Rule 11 of the National Company Law Tribunal Rules, 2016 (“NCLT Rules”) seeking for the following relief(s), *inter alia*: -

i. That the Tribunal be pleased to allow this application;

ii. To allow existing RP Mr. Rajat Mukherjee to resign under Regulation 22(2) of the IBBI(IP) Regulation, 2016.

iii. To appoint new Resolution Professional (RP) Mr. Manish Jain in place of present RP to start the necessary actions so that the pending tasks are finished in the allotted period;

iv. To direct the Committee of Creditors to promptly release the long pending fees and expenses of existing RP Mr. Rajat Mukherjee.

v. To pass such other and further directions as this Tribunal may deem fit in the facts and circumstances of the present case;

b. This IA is accompanied by an affidavit of Applicant at page nos. 22 and 23 of the said application.

c. The RP is to get replaced on medical grounds and that has been accepted by its 23rd CoC meeting, the CoC has proposed the name of RP, namely, Mr. Manish Jain as the new RP to that effect resolutions have been brought to notice and place before us.

d. There is a ratification by the CoC Members in regard to the release of the dues of erstwhile RP, i.e., outgoing RP, namely, Mr. Rajat Mukherjee to the tune of Rs. 40,60,433/-. Let the payment be released within a period of two weeks from the date of receipt of a copy of this Order.

e. We also permit the newly appointed RP is step into the shoes of the outgoing RP, namely, Mr. Rajat Mukherjee, whenever is required. Let necessary corrections be made in the cause title of each petition.



- f. We have perused the application and the documents attached therewith and heard the Ld. Counsel for the Applicant. We are satisfied with the prayer made in the IA should be allowed in view of the facts pleaded in the application.
- g. Accordingly, this **IA(I.B.C)/2236(KB)2024** is **allowed** and **disposed of** to the extent mentioned above.

3. **IA(I.B.C)/572(KB)2022** and **IA(I.B.C)/581(KB)2022:**

- a. This IA has been filed by Applicant under Section 60(5) of the Insolvency and Bankruptcy Code, 2016 (“IB Code”) read with rule 11 of the National Company Law Tribunal Rules, 2016 (“NCLT Rules”) seeking for the following relief(s), *inter alia*: -

- i. Declare that Respondent Nos. 1, 2 and 3 have given false information/incorrect statements due to which they should be barred from providing any Resolution Plan in respect of the Corporate Debtor;*
- ii. Direct Respondent No. 4 to take appropriate steps against the Respondent Nos. 1 to 3 for providing incorrect information and causing hindrance in the CIR process of the Corporate Debtor;*
- iii. Direct penal actions against the Respondent Nos. 1 to 3 for providing false information in order to participate in the resolution process of the Corporate Debtor;*
- iv. The Tribunal be pleased to grant ad-interim relief in terms of prayer clause (b) and (c); and*
- v. Such further Order or Orders and/or direction or directions be passed as to this Tribunal may deem fit and and proper.*

- b. Since the Resolution Plan that is being considered by us at present and these applications have been filed challenging some statements as prayed for by Mr. Ratul Gupta, who is already passed away. We deem it appropriate to reject this application.
- c. In view of such, these IAs’ being **IA(I.B.C)/572(KB)2022** and **IA(I.B.C)/581(KB)2022** stand **dismissed** to the extent mentioned above. File be consigned to record.

4. **IA(I.B.C)/406(KB)2022:**

- a. This IA has been filed by Applicant under Section 60(5) of the Insolvency and Bankruptcy Code, 2016 (“IB Code”) read with rule 11 of the National



Company Law Tribunal Rules, 2016 (“NCLT Rules”) seeking for the following relief(s), *inter alia*: -

- i. Order for condonation of delay if any in filing this instant application;*
- ii. No Orders should be passed in the liquidation application (IA No. 764 of 2021) pending the final adjudication of this Application;*
- iii. Necessary directions upon the RP and CoC to consider this revival proposal/plan submitted by the Applicant on 2nd May, 2022 for revival of the CD;*
- iv. Exclusion of CIRP period which will be utilized after 24th April, 2022 for consideration of the Plan of the Applicant.*
- v. Ad interim Orders in terms of prayers above;*
- vi. Such further Order or Orders and/or direction or directions be passed as to this Tribunal may deem fit and proper.*

b. In view of such, the present IA being **IA(I.B.C)/406(KB)2022** also stands **dismissed** to the extent mentioned above IAs’. File be consigned to record.

5. **IA(I.B.C)/365(KB)2022:**

a. This IA has been filed by Applicant under Section 60(5) of the Insolvency and Bankruptcy Code, 2016 seeking for the following relief(s), *inter alia*: -

- i. allow the present application;*
- ii. direct the Respondent to modify/update the claim of the Applicant;*
- iii. direct the Respondent to not put Resolution Plan to vote before modifying/updating the Applicant’s claim;*
- iv. for such further and other relief as this Tribunal may deem fit and proper in the facts and circumstances of the present case.*

b. Ld. counsel Mr. Kuldip Mallik wants to obtain instructions in regard to Order passed in **IA(I.B.C)/471(KB)2022** on 22nd May, 2024. We deem it appropriate to keep on Board till the next date of hearing.

c. Let instruction be obtained on the next date of hearing after which will consider the merit of the application and pass appropriate Order(s) in this IA.

6. List this matter for further consideration on **14.01.2025**.

D. Arvind
Member (Technical)

Bidisha Banerjee
Member (Judicial)

