



NATIONAL COMPANY LAW TRIBUNAL
COURT-V, MUMBAI BENCH

1. IA/3105/2023 C.P. (IB)/604(MB)2022

IN THE MATTER OF

Sagar Mohan Panchmatiya

... Petitioner

Vs

Horizon Outsource Solutions Pvt Ltd

... Respondent

U/s 7 of the Insolvency and Bankruptcy Code, 2016

Order Delivered on 06.10.2026

CORAM:
SH. VINAY GOEL
MEMBER (J)

SH. CHARANJEET SINGH GULATI
MEMBER (T)

Appearance through VC/Physical/Hybrid Mode:

For the Applicant: Adv. Kunal Kanungoo i/b Adv. Vikram Choudhary (VC)

For the Respondent:

ORDER

IA/3105/2023- The above IA/3105/2023 is listed for pronouncement of order. The same is pronounced in open Court, vide a separate order.

Sd/-
VINAY GOEL
Member (Judicial)

Sd/-
CHARANJEET SINGH GULATI
Member (Technical)

//Avdhesh//



**NATIONAL COMPANY LAW TRIBUNAL
MUMBAI BENCH - V**

**I.A(I.B.C)/3105/2023
IN
C.P.(IB)/604/MB/C-V/2022**

*(Under Section 60(5) r/w Section 14 and
66 of the Insolvency and Bankruptcy
Code.)*

Shri Rajendra Jain,

(Resolution Professional of Horizon
Outsource Solutions Private Limited)
9B, Vardan Tower, Lakhudi Circle,
Navrangpura, Ahmedabad - 380014.

...Applicant

Versus

1. Shahnaz Farhan Shaikh

Room No. 6A, Zohara Mansion, Road No.
35, 4th Peer Khan Street, Nagpada,
Mumbai, Maharashtra – 400008.

2. Mr. Devang Laljibhai Vegda

20-235, Javaharnagar, Opp. AEC,
Amraiwadi, Ahmedabad – 380026

3. Mr. Deepak Regar

Regar Basti, Rajnagar, Bijainagar,
Ajmer – 305624.

4. Dr. Amit Upadhyay

B-407, Chamunda Heritage, B/h Jeevan
Vikas, Andheri East, Mumbai – 400069

...Respondents



IN THE MATTER OF

Mr. Sagar Mohan Panchmatiya

...Financial Creditor/Petitioner

Versus

Horizon Outsource Solutions Private
Limited

...Corporate Debtor/Respondent

Order Delivered on: 06.10.2026

Coram:

Mr. Vinay Goel,
Member (Judicial)

Sh. Charanjeet Singh Gulati
Member (Technical)

Appearances:

For Applicant: Adv. Kunal Kanungo, Adv. Vikram
Choudhary

ORDER

I.A(I.B.C)/3105/2023

1. The present application has been filed by Mr. Rajendra Jain, (**“the Applicant/Resolution Professional”**), Resolution Professional of Horizon Outsource Solutions Private Limited (**“Corporate Debtor”**) under 60(5) of the Insolvency and Bankruptcy Code, 2016 (**“IBC/the Code”**), seeking:

“ a)...to direct the Respondents to Set-aside the Sale deed which was executed on 20.03.2023 i.e. after initiation of CIRP of the Corporate Debtor on 15.03.2023.

b)...to direct the respondents to consider the aforesaid Immovable Properties are part of the Corporate of Debtor;

c)...to pass an appropriate order under Section 66 of the Insolvency and Bankruptcy Code, 2016 against the Respondents herein”



Brief Facts of the Case

2. The Applicant submits that one of the Financial Creditor i.e. Mr. Sagar Mohan Panchmatiya (“**Financial Creditor**”) had preferred and filed an application under section 7 of the Code seeking initiation of the Corporate Insolvency Resolution Process (“**CIRP**”) of the Corporate Debtor. This Tribunal vide order dated 15.03.2023 admitted the said petition and appointed the Applicant as the Interim Resolution Professional (IRP).
3. The Applicant submits that this tribunal vide its order dated 15.03.2023 declared Moratorium under Section 13(1)(a) read with Section 14 of the Code 2016. Further, the Applicant made public announcement in Form-A as per Section 15 r/w Regulation 6 of IBBI (Insolvency Resolution Process for Corporate Persons) Regulations, 2016 on 21.03.2023 which was published in Financial Express (English) and Navkaal (Marathi) Newspapers. Pursuant to the public announcement, claims were received from creditors of the Corporate Debtor and the Committee of Creditors (“**CoC**”) in terms of Section 21(1) of the Code was constituted. In first meeting of the CoC was held on 13.04.2023, wherein it was unanimously resolved to continue the Applicant as Resolution Professional (RP) of the Corporate Debtor.
4. As per records available with the Ministry of Corporate Affairs (MCA), the last audited financial statements of the Corporate Debtor pertain to F.Y. 2016-17, and no immovable assets stood in its name as per such records. However, during a personal meeting with Respondents No. 2 to 4 (Suspended Directors), the Applicant learnt that the Corporate Debtor had acquired certain immovable properties during F.Y. 2017-18. Respondents No. 2 to 4 (Suspended Management) furnished documents pertaining to the said properties, particulars whereof are set out below:

12 flats situated at Dhanshree Paradise, Azde Golivali, Dombivali, Kalyan, District Thane, details of which are as follows:—



Sr. No.	Flat No.	Area in Sq.ft.	Dastavj No.
1	A-106	415	KLN -5/ 12944/2017
2	A-107	595	KLN -5/ 12942/2017
3	A - 302	445	KLN -5/ 12947/2017
4	A - 605	415	KLN -5/ 12952/2017
5	A - 702	445	KLN -5/ 12945/2017
6	B - 104	465	KLN -5/ 12954/2017
7	B - 204	465	KLN -5/ 12950/2017
8	B - 209	400	KLN -5/ 12946/2017
9	B - 708	445	KLN -5/ 12936/2017
10	A-707	595	N/A
11	B-504	465	N/A
12	B-704	465	N/A

5. The applicant states that the he came to know that the Suspended Management had sold three Immovable Properties out of the Twelve Properties (as mentioned above) through Sale Deeds dated 20.03.2023 ("**the said sale transactions**"), after the initiation of Insolvency Resolution Process of the Corporate Debtor i.e. 15.03.2023. The Respondent No. 2 to 4 i.e. Suspended Management had sold the properties the details as below:

- B-704, 7th Floor, Dhanshree Paradise, Azde Golivali, Dombivali, Kalyan, District: Thane having 465 Sq. Mtr. (Dastavej No. 6684/2023)
- B-504, 5th Floor, Dhanshree Paradise, Azde Golivali, Dombivali, Kalyan, District: Thane having 465 Sq. Mtr. (Dastavej No. 6683/2023).
- A-707, 7th Floor, Dhanshree Paradise, Azde Golivali, Dombivali, Kalyan, District: Thane having 465 Sq. Mtr. (Dastavej No.



6685/2023) to the Respondent No-1 i.e. Buyer and executed the sale deed on 20.03.2023.

6. The Applicant submits that the Suspended Management of the Corporate Debtor i.e. Respondent No.2 to 4, has after the initiation of the CIRP of the corporate debtor, illegally transferred/Sold the said assets of the Corporate Debtor to Shahnaz Farhan Shaikh ("**Respondent No.1**")
7. Since the Suspended Directors were not cooperating with the Applicant since the initiation of CIRP, the Applicant had filed an application under Section 19(2) of the Code seeking appropriate cooperation. On being informed of the alleged transaction, the Applicant informed Respondent No. 1 that the sale of assets (3 flats) was illegal, as CIRP had commenced w.e.f. 15.03.2023 and the moratorium was in force; the said property was therefore required to be reversed to the Corporate Debtor, the transaction being in violation of the Code. The Applicant, vide e-mail dated 01.07.2023, intimated Respondents No. 2 to 4 regarding the sale of the Corporate Debtor's assets after initiation of CIRP and inquired the Respondents to either reverse the said Sale transactions or transfer/ deposit the money received, in the bank account of the Corporate Debtor. Having received no response, the Applicant sent a reminder e-mail on 08.07.2023.
8. In these circumstances, the Applicant has filed the present application seeking appropriate directions against the Respondents on the following, among other, grounds:
 - a) The alleged transaction violates Section 14 of the Code, having taken place after initiation of CIRP and declaration of moratorium under Section 13. The said property of the Corporate Debtor is liable to be restored to the Corporate Debtor.
 - b) Under Section 17 of the Code, the powers of the Board of Directors stand suspended from the date of appointment of the IRP and vest in the IRP. The transfer of the Corporate Debtor's assets to Respondent No. 1, being without prior permission or proper authority, is illegal and void ab initio, and the said assets are liable to be restored to the Corporate Debtor.



c) The payment made by the Respondent No. 1 to the Suspended Management in respect of the said sale transactions were not made in the ordinary course of business and constitutes a Fraudulent Transaction under Section 66 of the Code. An appropriate order under Section 66 is accordingly required to be passed by this Hon'ble Tribunal.

9. The Applicant has through Additional Affidavit filed on 23.09.2024 submitted that the hearing in IA No. 3105 of 2023 held on 09.08.2024, wherein this Tribunal had orally directed the applicant to put on record the translated copies of the Index-2 of the properties of the Corporate Debtor and the Registered Sale Deed of the properties of the Corporate Debtor. Through this Additional Affidavit, placed on record the translated copy of the Index- 2 of the properties of the Corporate Debtor and the Registered Sale Deed of the properties of the Corporate Debtor.
10. The Applicant has further vide Additional Affidavit filed on 06.09.2026 submitted that this Tribunal vide orders dated 24.07.2023 and 01.02.2024, directed service of notice upon the Respondents. Accordingly, notices along with a copy of IA No. 3105 of 2023 were served upon the Respondents vide letters/emails dated 06.12.2023 and 12.02.2024. Respondent No. 1, Ms. Shahnaz Farhan Shaikh, was also served at her new address at Jogeshwari West vide letter dated 19.06.2024.
11. Despite service, none appeared for the Respondents. Accordingly, vide order dated 09.08.2024, a final opportunity was granted to file replies, and vide order dated 25.10.2024, their right to file replies was forfeited. Subsequently, the Memo of Parties in IA No. 3105 of 2023 was amended vide order dated 17.03.2025 to incorporate the new address of Respondent No. 1. Pursuant to the directions dated 24.04.2025, notices along with the amended Application were again issued to Respondent No. 1 at her new and old addresses; however, the same were returned with the endorsement "Item Returned Addressee Left without Instructions". Respondent Nos. 2 to 4 were served vide letter dated 24.04.2025 and email dated 28.04.2025. On 09.05.2025, the learned Advocate appearing for Respondent No. 1 requested the amended Application.



Accordingly, the same, along with the relevant affidavits, was served upon Respondent No. 1 and her learned Advocate vide email dated 12.05.2025. The Respondent No. 1 thereafter filed her reply vide email dated 30.05.2025.

12. Pursuant to the order dated 08.08.2025, further notices were served upon Respondent Nos. 2 and 3 vide letter dated 01.09.2025 and upon all the Respondents vide email dated 03.09.2025. The said Additional Affidavit filed on 06.09.2026 to place on record the notices, postal receipts, tracking reports, emails and other proof of service.

Analysis & Findings

13. We have heard the Ld. Counsel for the Applicant and perused the documents available on record.
14. On the hearing dated 18.08.2026, all the Respondents were set *ex-parte*. The relevant extract of the said order is reproduced below for reference:

*“2. No one is present on behalf of the Respondent No.1 to 4. **The right to file reply of Respondent No.2 to 4 have already been closed, and as no one represent them today, they are set ex-parte.** As regard, Respondent No. 1 their reply was served on the Applicant who has placed the copy of reply by way of additional affidavit, however, such reply has not been uploaded on the DMS. In the order dated 13.07.2026, directions were given for the presence of Advocate on record, however, no one is present today.*

*3. **As reply of Respondent No.1 has not been uploaded and has therefore, not been filed, and as also no one represents him, Respondent No.1 is also set ex-parte.**”*

15. It is the case of the Applicant that Respondent Nos. 2 to 4, being the Suspended Directors of the Corporate Debtor, sold three immovable properties of the Corporate Debtor to Respondent No. 1 vide registered Sale deeds dated 20.03.2023, i.e., five days after initiation of CIRP on 15.03.2023 and after declaration of moratorium under Section 14 of the Code. The said Sale transactions was carried out without the knowledge, consent or authorisation of the Applicant, in violation of Section 14(1)(b) and Section 17 of the Code, and that the sale proceeds have neither been accounted for nor deposited into the bank account of the Corporate Debtor despite specific



requests made in this regard vide emails dated 01.07.2023 and 08.07.2023. The Applicant accordingly seeks that the said sale deeds be set aside, the properties be treated as assets of the Corporate Debtor, and appropriate orders be passed against the Respondents under Section 66 of the Code.

16. Here, it is important note that, once the Corporate Debtor is admitted into CIRP, moratorium gets triggered under section 14 of the Code. Therefore, it is necessary to refer relevant extract of section 13 and 14(1) of the Code:

“Section 13-Declaration of moratorium and public announcement.:

(1) The Adjudicating Authority, after admission of the application under section 7 or section 9 or section 10, shall, by an order—

(a) declare a moratorium for the purposes referred to in section 14;

(b) cause a public announcement of the initiation of corporate insolvency resolution process and call for the submission of claims under section 15; and

(c) appoint an interim resolution professional in the manner as laid down in section 16.”

“Section 14-Moratorium-

*(1) Subject to provisions of sub-sections (2) and (3), sub-sections (2), (2A) and (3), **on the insolvency commencement date, the Adjudicating Authority shall by order declare moratorium for prohibiting all of the following, namely:—***

(a) the institution of suits or continuation of pending suits or proceedings against the corporate debtor including execution of any judgment, decree or order in any court of law, tribunal, arbitration panel or other authority;

(b) transferring, encumbering, alienating or disposing of by the corporate debtor any of its assets or any legal right or beneficial interest therein;”

[Bold for Emphasis]

17. A bare reading of Sections 13(1) and 14 of the Code makes it evident that admission of an application under Section 7, 9 or 10 marks the commencement of insolvency, and statutorily obligates the Adjudicating Authority to declare a moratorium by the same order admitting the Corporate Debtor into CIRP and appointing the IRP. Section 14(1)(b) further makes clear



the legislative intent that, during the moratorium, the Corporate Debtor shall not transfer, encumber, alienate or dispose of its assets or any legal right or beneficial interest therein. These provisions are deliberately framed to keep the assets of the Corporate Debtor intact during the resolution process, thereby facilitating its timely, orderly and efficient completion.

18. Coming to the facts of the present case, this Tribunal vide order dated 15.03.2023 admitted the Corporate Debtor into CIRP. The said order clearly stated the effective date of moratorium to be from 15.03.2023 till the completion of CIRP. For easy reference, the relevant extract of the said order admission order is as under:

“g. That the order of moratorium shall have effect from the date of pronouncement of this order till the completion of the corporate insolvency resolution process or until this Bench approves the resolution plan under sub-section (1) of section 31 or passes an order for liquidation of corporate debtor under section 33, as the case may be.”

19. Now that we have set out the relevant statutory provisions and the effective date of moratorium as ordered by the Adjudicating Authority in the present case, we may now look at the sequence of events on when these impugned transactions transpired and thereafter analyse whether these impugned transactions were statutorily permissible from the perspective of moratorium.
20. It is the submission of the Applicant that despite the knowledge of initiation of CIRP, and despite the express bar under Section 14(1)(b) of the Code, Respondent Nos. 2 to 4 proceeded to execute the said Sale deeds in respect of three flats of the Corporate Debtor in favour of Respondent No. 1 just 5 days after CIRP commencement i.e. on 20.03.2023. Further, Respondent Nos. 2 to 4 did not disclose the same to the Applicant, who learnt of it only during a subsequent personal meeting. Despite being called upon vide emails dated 01.07.2023 and 08.07.2023 by the Applicant to either reverse the transaction or deposit the sale proceeds with the Corporate Debtor, Respondent Nos. 2 to 4 neither complied nor responded, evidencing wilful and deliberate conduct in defiance of the moratorium.
21. The fact that the Corporate Debtor participated in the proceedings, filed its reply to the main petition, and was represented through its Ld. Counsel on



15.03.2023, as recorded in the order admitting the petition, indicates that the Respondent Nos. 2 to 4, being the Suspended Directors, cannot be considered to be ignorant of the initiation of CIRP and the declaration of moratorium with effect from 15.03.2023.

22. Further, the Suspended Directors were, not authorised to carry out the sale transaction during the moratorium, since transferring, encumbering, alienating or disposing of any asset of the Corporate Debtor, or any legal right or beneficial interest therein, is expressly prohibited under Section 14(1)(b) of IBC. Therefore, the sale of the 3 flats (assets of the Corporate Debtor) by Respondent Nos. 2 to 4 to Respondent No. 1 is in violation of section 14(1)(b) of the Code and is accordingly liable to be set aside.
23. Further, it is the Applicant's contention that, neither the sale of the said assets by the Suspended Management to Respondent No. 1 was made in the ordinary course of business, nor the proceeds thereof were received in the account of the Corporate Debtor, and therefore it constitutes a Fraudulent Transaction under Section 66 of the Code. Thus, it is necessary to refer section 66 of the Code:

“Section 66-Fraudulent trading or wrongful trading.

(1) If during the corporate insolvency resolution process or a liquidation process, it is found that any business of the corporate debtor has been carried on with intent to defraud creditors of the corporate debtor or for any fraudulent purpose, the Adjudicating Authority may on the application of the resolution professional or the liquidator pass an order that any persons who were knowingly parties to the carrying on of the business in such manner shall be liable to make such contributions to the assets of the corporate debtor as it may deem fit.

(2) On an application made by a resolution professional during the corporate insolvency resolution process, or by a liquidator the Adjudicating Authority may by an order direct that a director or partner of the corporate debtor, as the case may be, shall be liable to make such contribution to the assets of the corporate debtor as it may deem fit, if—

(a) before the insolvency commencement date, such director or partner knew or ought to have known that there was no



reasonable prospect of avoiding the commencement of a corporate insolvency resolution process in respect of such corporate debtor; and

(b) such director or partner did not exercise due diligence in minimising the potential loss to the creditors of the corporate debtor.”

[Bold for Emphasis]

24. From the aforesaid, it is evident that, Section 66 of the Code empowers the Adjudicating Authority, on an application by the Resolution Professional, to pass an order against any person who was knowingly party to the carrying on of the business of the Corporate Debtor with intent to defraud its creditors or for any fraudulent purpose, directing such person to contribute to the assets of the Corporate Debtor to the extent the Adjudicating Authority deems fit. Sub-section (2) further extends such liability to a director or partner who, prior to the insolvency commencement date, knew or ought to have known that there was no reasonable prospect of avoiding CIRP, and who failed to exercise due diligence to minimise potential loss to creditors. The provision is thus aimed at fixing personal accountability on persons in management who, with knowledge of the corporate debtor's distress, acted to the detriment of its creditors rather than in their interest.
25. In the present case, it is observed that since the said Sale transactions have taken place on 20.03.2023 i.e. just 5 days after the CIRP commencement, the suspended directors having the knowledge of CIRP commencement and moratorium in effect, carried out the said sale transaction to divert/ siphon off the proceeds received from the assets of the Corporate Debtor thereby depicting an intent to defraud the creditors as per section 66 of the Code.
26. Further, in terms of the principle of *caveat emptor*, a person entering into an agreement for purchase of property is expected to exercise due diligence with regard to the title and authority of the person purporting to sell the property. Accordingly, in the present case, Respondent No. 1 was expected to exercise due diligence before purchasing the assets from the Suspended



Directors of the Corporate Debtor. The failure to undertake such due diligence, particularly with regard to the authority of the sellers to effect the sale, casts doubt on the Respondent No. 1 being a bona fide purchaser.

27. In view of the facts and circumstances discussed hereinabove, it is observed that the sale transactions in question were entered into by Respondent Nos. 2 to 4 with Respondent No. 1 with knowledge of the initiation of CIRP. The transactions, insofar as they relate to specific and identifiable assets owned by the Corporate Debtor, are therefore in violation of the prohibition contained in Section 14(1)(b) of the Code. Accordingly, in the facts of the present case, it is considered appropriate to grant relief under Section 14(1)(b) of the Code rather than under Section 66 of the Code.
28. In light of the provisions of Section 14(1)(b) of the Code and discussion hereinabove, we are of the considered opinion that the sale of the 3 flats of the Corporate Debtor is illegal, and this Tribunal accordingly sets aside the said Sale transactions executed on 20.03.2023 in respect thereof. The said flats shall stand restored as assets of the Corporate Debtor.
29. Accordingly, I.A(I.B.C)/3105/2023 is **allowed** and **disposed of**.

Sd/-

Vinay Goel
Member (Judicial)

Rashmi, LRA

Sd/-

Charanjeet Singh Gulati
Member (Technical)