

**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)**

CP (IB) No.266/Chd/Hry/2020

**Under Section 7 of the Insolvency
and Bankruptcy Code, 2016 read
with Rule 4 of the Insolvency &
Bankruptcy (Application to
Adjudicating Authority) Rules, 2016**

In the matter of:

- 1. MR. GOLDY GERA**
[Authorised representative vide LOA dated 26.10.2020]
S/o Shri Gulshan Gera
R/o House No. 2102, Near Dayanand School
Air Force Road, Jawahar Colony
Faridabad, Haryana – 121001
E-mail:goldygera@gmail.com
Mob. No.-9717045045
- 2. MR. SANJEEV WADHWAN**
S/o Shri Prem Kumar Wadhwan
R/o B-5/202, Safdarjung Enclave,
New Delhi-110029
- 3. MS. DIVYA**
D/o Shri Prem Kumar Wadhwan
R/o A-2779, Ground Floor
Green Fields Colony
Faridabad - 121010
- 4. MR. VIKAS SACHDEVA**
S/o Shri Ishwar Dass Sachdeva
R/o House No – 2J-WH – 16
NIT Faridabad, Haryana - 121001
- 5. MR. CHANCHAL MOHAN RISHI**
S/o Shri Chanan Lal Rishi
R/o House No. – 10, G.F.,
I.P. Colony, Faridabad - 121003
- 6. MR. YUDHISTER BHARDWAJ**
S/o Shri K.K. Bhardwaj
R/o House No. - 2975 (30/24)
Rajinder Nagar, Ambala Cantt.,
Haryana - 133001
- 7. MR. SANT LAL NAPHARIA**

S/o Shri Manphool Singh
R/o 1005 Youngsters CGHS
Plot No. 13 C, Sector 6
Dwarka, New Delhi - 100075

8. MR. BIJENDER

S/o Shri Rattan Singh
R/o MCF/B-176
Subhash Colony, Main Road,
Ballabgarh, Faridabad, Haryana– 121004

9. MR. SUNIL DEWAN

S/o Shri Late B.D. Dewan
R/o 845A, Sector 29
Faridabad, Haryana – 121008

10. MR. DEWAKAR MAHENDRU

S/o Shri Raj Kumar
R/o D-117, Sector 11,
DLF Model Town,
Faridabad, Haryana - 121006

11. MR. PARVEEN SHARMA

S/o Shri Krishan Lal Sharma
R/o House No. A-1/10
Kohinoor Apartments
Kalkaji, New Delhi - 110019

12. MR. VISHAL GUPTA

S/o Shri Gyan Prakash Gupta
R/o House No. – 376, Sector -16
Faridabad, Haryana – 121002

13. MR. RAJIV WADHWAN

S/o Shri Prem Kumar Wadhwan
R/o Jasmine 102, Omaxe Forest SPA,
Surajkund Road, Sector 43,
Faridabad, Haryana - 121003

14. MR. ADIL HUSAIN

S/o Shri Asrar Husain
R/o 121, Zakir Nagar
Lane No. 1, Jamia Nagar
New Delhi - 110025

15. MR. FOUZIA ADIL

W/o ShriAdil Husain
R/o 121, Zakir Nagar
Lane No. 1, Jamia Nagar
New Delhi - 110025

16. MR. HARMINDER SINGH MALHOTRA

S/o Late Shri Tirath Singh

R/o 640, 2nd Floor
New Rajinder Nagar
New Delhi- 110060

- 17. MR. SANJEEV DEWAN**
S/o Shri Late B.D. Dewan
R/o House No. – 712, Sector 31
Faridabad, Haryana - 121003
- 18. MRS. CHARU VIRMANI**
W/o Shri Neeraj Virmani
R/o House No. 1/30, Sahstri Colony,
Sector-19, Faridabad, Haryana
- 19. MR. HARMEET SINGH BHATIA**
S/o Shri Late Gurbachan Singh Bhatia
R/o P8-28/C, Pearl Floors,
SRS Royal Hills, Sector 87,
Faridabad, Haryana – 121002
- 20. MRS. VANEET DIMPLE**
W/o Mr. Dinesh Swaroop Sharma
R/o House No. – 10, GF,
Indraprasth Colony,
Sector – 30-33, Faridabad
Haryana - 121001
- 21. MRS. REENA MAHENDRU**
W/o Mr. Atul Mahendru
R/o W-56, 2nd Floor,
Greater Kailash- 2
New Delhi - 110048
- 22. MR. RAM PRASAD**
S/o Shri. Mam Chand
R/o House No. – 298
Koli Mohalla, Mujesar
Faridabad, Haryana - 121005
- 23. MR. VIJAY SHARMA**
S/o Shri. Sadanand Sharma
R/o 124, Pocket 2, 2nd Floor
Jasola, New Delhi - 110025
- 24. MR. SUKHWINDER SINGH**
S/o Shri. S. Raghbir Singh
R/o 29, Guru Amardass Nagar,
Bypass Road, Jalandhar,
Punjab -144008
- 25. MRS. NAMITA MARWAH**
W/o Mr. Girish K. Marwah
R/o House No. – 330,

Sector 31, Faridabad
Haryana -121001

26. MR. GAJENDRA PRATAP SINGH

S/o Shri. Ram Aadhar Singh
R/o 11, Krishna Vihar Colony
Mangal Bazar Gali
Ghaziabad, Uttar Pradesh - 201301

27. MRS. GHOSIA SULTANA

W/o Shri Mohammad Ahteshamuddin
R/o House No. – 1162
Sector – 3, Ballabgarh
Faridabad, Haryana- 121004

28. MR. ANKIT GARG

S/o Shri. Prabhat Chandra Garg
R/o M- 1215, Piyush Heights
Sector – 89, Nehar Par
Faridabad, Haryana -121002

29. MR. BHAVYA CHAWLA

S/o Mr. Rahul Chawla
R/o 431(GF), Nimri Colony
Ashok Vihar, Phase-4
New Delhi - 110052

30. MR. RAKESH KUMAR

S/o Late Shri. Pashupati Nath Roy
R/o 4C, 3238, Adarsh Apartment
Vasundhara, Ghaziabad
Uttar Pradesh - 201012

31. MR. ASHOK KUMAR

S/o Shri Dalchand
R/o House No. 506, Sector – 8
Faridabad, Haryana –121006

32. MR. MANOHAR MASIH

S/o Shri Late Hari Ram
R/o House No. – 116, Gali No.2
Sunder Colony, Nangla Road, NIT
Faridabad, Haryana 121005

33. MR. NABA KUMAR BISWAS

S/o Shri Nepal Chand Biswas
R/o Vil + P.O. Kampa, Distt. -24,
Parganas (North), West Bengal – 743193

34. MR. SANTOSH KUMAR YADAV

S/o Shri Munnialal Yadav
R/o House No. – 185
Surya Colony, Sehtapur

Faridabad, Haryana - 121003

- 35. MR. AMIT SINGHAL**
S/o Shri H.L. Singhal
R/o House no.-1454, Sector-9,
Faridabad-121007
- 36. MS. SHILPA KAPOOR**
W/o Shri Rahul Kapoor
R/o House No. - 113, 2nd Phase
Roop Rajat Township, Near Badu Market
Jodhpur, Rajasthan - 342008
- 37. MR. RANVEER SINGH**
S/o Shri Late Chhota Singh
R/o E-43/04, GF, BPTP Park
Elite Floors, Sector – 85
Faridabad, Haryana - 121002
- 38. MR. RAJEEV DEWAN**
S/o Shri B.D. Dewan
R/o House No – 3E/11, NIT
Faridabad, Haryana - 121001
- 39. MR. SURJEET SRIVASTWA**
S/o Shri. Hari Kishore Srivastwa
R/o House No. – 1320
Jasbir Colony, Noorwala,
Panipat, Haryana - 132103
- 40. MR. SUNIL KUMAR**
S/o Shri. Late B.L. Tyagi
R/o BG, 1/40C
Shalimar Bagh
New Delhi - 110088
- 41. MR. MOHIT TYAGI**
S/o Shri. Late B.L. Tyagi
R/o BG 1/40C
Shalimar Bagh
New Delhi - 110088
- 42. MR. RAJINDER SINGH**
S/o Shri. Manmohan Singh
R/o G-1, Medha Apartments
Mayur-Vihar, Phase – I
Delhi - 110091
- 43. MRS. SAROJ BALA PAHUJA**
W/o Mr. Mahinder Kumar Pahuja
R/o House No. – 17, Shastri Colony
Faridabad Old, Haryana - 121001

- 44. MR. CHIRDEEP GAMBHIR**
S/o Shri Om Prakash Gambhir
R/o House No. – 614
Sector 16, Faridabad
Haryana - 121002
- 45. M/S VARDA EXIM PRIVATE LIMITED**
Through its Director, Mr. Vaneet Dimple
C/o House No. - 10, Ground Floor
Indraprastha Colony, Sector 30-33
Faridabad, Haryana - 121003
- 46. MR. ANIL KUMAR SACHDEVA**
S/o Shri Nota Ram Sachdeva
R/o C-171, Sector – 11D
DLF Model Town
Faridabad, Haryana - 121006
- 47. MR. VIKAS KUMAR**
S/o Shri Late Balbir Singh
R/o V.PO Khandsa
Near Bala Ji Mandir
Gurgaon, Haryana - 122004
- 48. MR. VINEET SHARMA**
S/o Shri Inder Kumar Sharma
R/o J-188, Beta School
Babul Street No. 04
Greater Noida, Uttar Pradesh - 201009
- 49. MS. MONA SRIVASTAVA**
D/o Shri Late Ram Gopal Srivastava
R/o 242, Second Floor
Indraprastha Colony, Sector – 30-33,
Faridabad, Haryana - 121003
- 50. MRS. SAVITA KALRA**
W/o Shri Vinod Kumar Kalra
R/o House No. – 2646
Sector -16, Faridabad
Haryana – 121002
- 51. MR. VIRENDER KUMAR JAIN**
S/o Shri Late Vidya Sagar Jain
R/o BG - 1/32B
Shalimar Bagh (West)
New Delhi – 110088
- 52. MRS. SANTOSH WADHWAN**
S/o Shri Prem Kumar Wadhwan
Jasmine, 102, Omaxe Forest SPA
Surajkund Road, Sector 43

Faridabad, Haryana - 121003

53. MRS. NITI TREHAN

W/o Mr. Ashwani Trehan
R/o F-50, Sushant Lok III
Sector – 57, Gurgaon
Haryana - 122001

54. MRS. ANUPAMA

W/o Mr. Arvind Pratap Singh
R/o P4/08C, SRS Pearl Floors
SRS City, Sector -87
Faridabad, Haryana –121008

55. MR. SOHAN SINGH RANA

S/o Shri Late Dhani Ram Rana
R/o House No. – 306
Pragpur, Tehsil – Dehra
Kangra, Himachal Pradesh - 177107

56. MR. ANCHAL HASIJA

S/o Shri Virender Kumar
R/o C-75, Pandav Nagar,
Opp. Mother Dairy,
New Delhi

57. MR. RAKESH HASIJA

S/o Shri Som Dev Hasija
R/o House No. – 1202
Sector 45, Prateek Stylome
Noida, Uttar Pradesh –201303

58. MR. MANISH GARG

S/o Shri Shrawan Kumar Garg
R/o House No. – 1966/4
Jawahar Colony, Air Force Road, NIT
Faridabad, Haryana - 121001

59. MR. MAHESH KUMAR

S/o Shri Raj Kumar
R/o House No. – 1384
Sector 28, Faridabad
Haryana - 121008

60. MRS. RAJNI CHOUDHARY

W/o Mr. Pradeep Kumar
R/o House No.- 10 Sector-16
Faridabad, Haryana – 121002

61. MRS.PROMILA CHUGH

D/o Shri G.L Kohli
R/o Flat No.C-401,

Badhwar Apartments,
Plot No.-3, Sector-6,
Dwarka, New Delhi-110075

- 62. MR. JASBIR SINGH VOHRA**
S/o Shri Bhagat Singh Vohra
R/o J-46, First Floor,
Vikaspuri, New Delhi-110018
- 63. MR. JAGMOHAN SINGH**
S/o Shri Surjeet singh
R/o A2-221, Janakpuri,
New Delhi-110058
- 64. MRS. MANJU KUMARI**
W/o Shri Subhash Chand
R/o House No.-1183, Parvatiya Colony,
2nd, Saran School Road, NIT Faridabad,
Haryana-121005
- 65. MRS. REKHA GAIROLA**
W/o Shri O.P. Gairola
R/o Gairola Niwas, Power House Road,
Sapruon, tehsil & District Solan,
Himachal Pradesh
- 66. MRS. PRIYANKA SINHA**
W/o Shri Ashutosh Sinha
R/o 403, Serena C, Lodha Casabella,
Palava, Kalyanshil Road, Dombivali (E),
Maharashtra-421204
- 67. MRS. EKTA KUMARI**
W/o Shri Shashank Shekhar
R/o F-304, Shayambhavi Residency,
Jagdamba Path, Boring Road,
Patna-80013
- 68. MRS. MANU SOOD**
S/o Shri Mansha Ram Sood
R/o C-15, Sector-29,
Jalvayu Vihar, Farodabad-122018
- 69. MR. ROSHAN LAL**
S/o Shri Kant
R/o House no.-327, Sector-29,
Kurukshetra Global City, Kurukshetra,
Haryana
- 70. MR. INDER MOHAN MALHOTRA**
S/o Late Shri Tilak Raj
R/o 25A, Sector-2B,

Sadhna Vaishali, Ghaziabad,
Uttar Pradesh

71. MR. HARVINDER SINGH

S/o Late Mr. Randhir Singh
R/o B5/105, Paschim Vihar,
New Delhi-110063

72. MRS. SUNITA RATHEE

W/o Shri Hari Narayan
R/o House No.-135A, 2nd Floor,
NIT, Faridabad, Haryana

73. MR. DEEPANSHU KHURANA

S/o Shri Arun Khurana
R/o 305, Sector-31,
Faridabad, Haryana-121003

74. MR. RAM CHAND

S/o Shri Nathi
R/o Mawai House, Street-7,
Behind Sukhram Hospital,
Adarsh Colony, Palwal,
Haryana-121102

75. MR. SACHIN AGARWAL

S/o Shri Krishan Autar
R/o Flat No.-2052, G Block,
16th Avenue, Gaur City-II,
Greater Noida West,
Gautam Budh Nagar-201009

...FINANCIAL CREDITORS/APPLICANTS

VERSUS

M/S SRS REAL INFRASTRUCTURE LIMITED

CIN NO.: L65910HR1990PLC040431

Through its Director(s)
Having registered office at:
SRS Multiplex, Top Floor City Centre,
Sector-12, Faridabad,
Haryana-121007

...CORPORATE DEBTOR/RESPONDENT

Judgment delivered on: 16.08.2022

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

Present through video-conferencing:

For the Petitioners/Financial Creditors : Mr. Bharat Bhushan Sethi, Adv.
Ms. Asmita Chaudhary,
Adv.

For the Respondent/Corporate Debtor : Respondent is ex parte vide order
dated 22.12.2021.

Per: Harnam Singh Thakur, Member (Judicial)

ORDER

The present petition has been filed, under Section 7 of the Insolvency and Bankruptcy Code, 2016 (hereinafter referred to as the '**Code**') read with Rule 4 of the Insolvency and Bankruptcy (Application to Adjudicating Authority Rules, 2016 (hereinafter referred to as the '**Rules**') by Mr. Goldy Gera ('**Petitioner/Financial Creditor No.1**') and Seventy Four others, to initiate the Corporate Insolvency Resolution Process ('**CIRP**') against the M/S SRS Infrastructure Limited (hereinafter referred to as '**Respondent/Corporate Debtor**'). The petition is signed by Mr. Goldy Gera. Authority Letters executed by the remaining financial creditors in favour of Godly Gera have been attached at page 243-327 of the Petition. The master data of the Corporate Debtor has been annexed as Annexure-A1 of the Petition. A perusal whereof shows that the Corporate Debtor is incorporated on 26.06.1990 and is a real estate company having its registered address at SRS Multiplex, Top Floor, City Centre, Sector 12, Faridabad, HR 121007 IN. Also the address other than registered office where all or any books of accounts and papers are maintained is at SRS Tower, 3rd Floor, Near Metro station Mewla Maharajpur, G.T. Road Faridabad 121003 HR. Therefore, the jurisdiction lies with this Bench of the Adjudicating Authority.

2. The facts of the case as briefly stated in the petition are that the Financial Creditors invested their money with the corporate Debtor in its

Project flouted as” SRS Residency” situated at village Bhood, sub-tehsil Raipur Rani, Panchkula, Haryana. However the Corporate Debtor despite promising the handover the possession from as early as 2017 (as per clause 8 of the BBA Agreement, the possession was to be handed within 3 years from the date of execution of the (BBA) failed to honour its commitment and thus committed the default with respect to the financial debt as paid to the Corporate Debtor in the form of advance money paid for the purchase and possession of the plots purchased.

3. The Petitioner has submitted the following tabular representation against the fulfillment of 10% criterion as prescribed under the Code:-

2. **Details of the project:**

Project Name	SRS RESIDENCY
Area	32 Acres
Location	Village Bhood, Sub-Tehsil, Raipur Rani, Panchkula, Chandigarh, Haryana
Total No. Of Plots in The Project	573
10% of the allottees	58
No of allottees/ petitioners in the present case	77

3. **Details with regards to the total number of plots in the project:**

As per the map of the project as issued by the corporate debtor to the financial creditor(s), the project has in all 573 plots in to divided into 6 blocks, as also clarified in the legend. That for further consideration of this Hon'ble Tribunal the details of the plots in the project as spread in various blocks in being clarified herein below:

Details of the Blocks	No. of Plots
BLOCK A (Containing plots A1-A84)	84
BLOCK B (Containing plots B1-B67)	67
BLOCK C (Containing plots C1-C116)	116

BLOCK D (Containing plots D1-D159)	159
BLOCK E (Containing plots E1-E60)	60
BLOCK F (Containing plots F1-F87)	87
TOTAL PLOTS	573

That the true copy of the map as issued by the corporate debtor is herewith marked and annexed as **ANNEXURE-1** and the true clear copy of the legend as shown in the map is annexed as **ANNEXURE-2**.

4. Details of the allottees, their allotted units and total amount paid and claimed including interest as on date of filing the present petition:

S.NO	NAME OF THE APPLICANT	PLOT NO.	AMOUNT PAID (Rs.)	AMOUNT CLAIMED (Rs.) [with delay penalty interest 18% PA]
1.	Goldy Gera/Gaurav Gera	A63	6,68,250	12,10,211
2.	Sanjeev Wadhwan	A2	9,62,500	17,72,537
3.	Divya	A3	11,00,000	19,76,828
4.	Vikas Sachdeva	A21	9,90,000	17,84,461
5.	Chanchal Mohan Rishi	A23	10,89,186	19,51,749
6.	Yudhister Bhardwaj	A28	11,00,000	19,78,945
7.	Sant Lal Napharia	A32	8,25,000	15,19,051
8.	Bijender	A45	4,40,000	7,91,884
9.	Sunil Dewan	A61	11,01,288	19,89,597
10.	Raj Kumar Mahendru/Dewakar Mahendru	A65	5,32,125	9,67,421
11.	Raj Kumar Mahendru/Dewakar Mahendru	A66	6,82,514	12,57,191
12.	Parveen Sharma	A67	10,72,706	19,41,892
13.	Rupika Gupta/Vishal Gupta	A68	10,00,000	17,98,658
14.	Rajiv Wadhwan	A70	11,00,000	19,74,658
15.	Adil Husain	A71	6,02,500	11,25,144
16.	Fouzia Adil	A72	6,02,500	11,25,206
17.	Harminder Singh Malhotra	B16	8,71,349	15,89,964
18.	Sanjeev Dewan	B19	8,00,800	14,36,826

19.	Charu Virmani	B54	7,41,985	13,25,719
20.	Harmeet Singh Bhatia	C1	7,74,532	13,96,455
21.	Vaneet Dimple	C2	4,40,000	8,18,402
22.	Reena Mahendru	C 5	8,25,000	15,21,865
23.	Ram Prasad	C21	6,75,840	12,34,262
24.	Vijay Sharma	C23	6,86,582	12,51,394
25.	Sukhwinder Singh	C28	5,04,000	9,25,765
26.	Namita Marwah	C36	6,33,600	11,33,567
27.	Gajendra Pratap Singh	C55	4,40,000	7,92,969
28.	Ghosia Sultana	C56	4,32,000	7,75,822
29.	Ankit Garg	C64	4,40,000	7,81,102
30.	Bhavya Chawla	C86	4,50,450	7,90,953
31.	Rakesh Kumar	C87	3,08,000	5,44,865
32.	Ashok Kumar	C94	3,85,000	6,76,711
33.	Manohar Masih	C96	4,40,000	7,89,253
34.	Naba Kumar Biswas	D3	3,85,000	7,02,492
35.	Santosh Kumar Yadav	D6	4,31,200	7,77,845
36.	Amit Singhal	D8	3,67,000	6,71,377
37.	Shilpa Kapoor	D12	3,96,000	7,05,412
38.	Ranveer Singh	D21	4,20,000	6,09,407
39.	Rajeev Dewan	D26	4,00,400	7,21,306
40.	Surjeet Srivastwa	D58	4,40,000	7,91,545
41.	Sunil Kumar	D65	3,74,083	6,86,962
42.	Mohit Tyagi	D66	3,74,083	6,86,036
43.	Rajinder Singh	D73	2,48,000	4,55,954
44.	Saroj Bala Pahuja	D77	4,40,000	7,78,431
45.	Chirdeep Gambhir	D87	4,18,000	7,53,569
46.	Varda Exim Private Limited	D93	2,97,000	5,45,955
47.	Varda Exim Private Limited	D94	4,95,000	7,44,724
48.	Anil Sachdeva	D97	4,30,650	7,71,450
49.	Vikas Kumar	D99	4,95,000	8,77,981
50.	Vineet Sharma	D104	4,95,000	8,05,928

51.	Mona Srivastava	D133	4,40,000	7,92,372
52.	Savita Kalra	D159	5,01,600	9,34,887
53.	Virender Kumar Jain	E9	7,22,975	13,38,287
54.	Santosh Wadhwan	E14	7,04,000	12,61,785
55.	Niti Trehan	E48	4,18,000	7,53,525
56.	Ram Chand	E60	4,40,000	7,76,600
57.	Anupama	F8	4,44,000	7,93,836
58.	Anchal Hasija	F21	4,80,150	8,48,603
59.	Rakesh Hasija	F22	4,80,150	8,50,707
60.	Manish Garg	F24	2,93,000	5,40,959
61.	Mahesh Kumar	F27	4,40,000	7,92,426
62.	Rajni Choudhary	F51	4,40,000	7,90,677
63.	Promila Chugh	A4	7,32,000	13,47,397
64.	Jasbir Singh Vohra	A54	15,13,956	22,90,699
65.	Jagmohan Singh	B47	10,46,700	14,60,648
66.	Manju Kumari	C47	4,95,000	7,55,424
67.	Rekha Gairola	C105	4,40,000	7,93,715
68.	Priyanka Sinha/Ashutosh Sinha	D27	3,30,000	5,92,034
69.	Ekat Kumari	D28	4,40,000	7,79,822
70.	Manu Sood	D35	3,96,000	7,09,145
71.	Roshan Lal	D83	4,95,000	8,74,794
72.	Inder Mohan Malhotra	D144	2,90,400	5,31,675
73.	Harvinder Singh	E29	2,91,163	5,32,579
74.	Sunita Rathee/Hari Narayan	E31	5,98,310	14,46,829
75.	Deepanshu Khurana	E55	3,03,850	5,50,329
76.	Ram Chand	E60	2,47,500	4,50,057
77.	Sachin Agarwal	F50	4,60,350	7,98,550
	TOTAL		4,45,08,227-	7,94,26,062/-

4. It is stated in Part-IV of Form No.1 that the total amount of financial debt as regards the Financial Creditors is Rs 7, 94,26,062/- and date of default is continuing since January 2017 till September 2019 i.e. 17.09.2019 which is date of possession to Mr. Jagmohan Singh/Financial creditor-home buyer and the default is being continued even till date.

5. It is observed from the record that the petitioners have proposed the name of Mr. Amarpal as Interim Resolution Professional bearing IBBI registration No. IBBI/IPA-01/IP/P01584/2018-19/12411. A copy of Form 2 along with valid AFA and IBBI Registration Certificate obtained from the proposed IRP has been attached at page 240-242 of the petition.

6. The notice of this petition was issued to the respondent-Corporate Debtor vide order dated 04.01.2021 by this adjudicating authority to show cause as to why the present petition be not admitted. It is to be noted that as per order dated 22.12.2021 passed by this Adjudicating Authority, despite repeated service even through paper publication in two daily newspapers i.e. Times of India(English) dated 24.03.2021, and Dainik Jagran(hindi) dated 24.03.2021 none has appeared on behalf of the respondent. Therefore, this Adjudicating Authority was constrained to proceed with the matter and the respondent was set ex parte.

7. We have heard the learned counsel for the petitioners and and have also perused the record carefully.

8. Section 7(5)(a) of the Code provides as under:-

“5) Where the Adjudicating Authority is satisfied that—

(a) a default has occurred and the application under sub-section (2) is complete, and there is no disciplinary proceedings pending against the proposed resolution professional, it may, by order, admit such application.”

9. In the present case, the occurrence of default is evidenced by the copy of Builder Buyer Agreement (Annexure A3), establishing the relationship between the parties stating the terms and conditions agreed between the parties and date of possession as promised by the Corporate Debtor and also through the acknowledgment receipts issued by the corporate debtor and the bank statements along with computation of default(Annexure A4).The same has also been inferred from the date of possession i.e. 17.09.2019 by one of the petitioner namely, Mr. Jagmohan Singh as mentioned at page 15 of the petition.

10. The other issue for consideration is whether the present application has been filed within limitation. It can be seen from the records that corporate debtor had to deliver possession of the Plot B-47 on 17.09.2019. Further, details with respect to other Financial Creditors about the allotment, amount paid and date of default is mentioned at page 15 of the petition. True Copy of the Builder Buyer Agreement executed with one of the applicant, Mr Goldy Gera and Mr. Gaurav Gera has been attached at Annexure A3, whereas the present petition has been filed vide Diary No.01719 dated 23.11.2020. Therefore the present petition is filed within limitation.

11. The another issue for consideration is whether the present petition ‘by home buyers’ is maintainable. Section 7 of the Insolvency & Bankruptcy Code, 2016 is reproduced below :-

“Section 7 Initiation of corporate insolvency resolution process by financial creditor.

(1) *A financial creditor either by itself or jointly with ¹[other financial creditors, or any other person on behalf of the financial creditor, as may be notified by the Central Government,] may file an application for initiating corporate insolvency resolution process against a corporate debtor before the Adjudicating Authority when a default has occurred.*

²[Provided that for the financial creditors, referred to in clauses (a) and (b) of sub-section (6A) of section 21, an application for initiating corporate insolvency resolution process against the corporate debtor shall be filed jointly by not less than one hundred of such creditors in the same class or not less than ten per cent. of the total number of such creditors in the same class, whichever is less:

Provided further that for financial creditors who are allottees under a real estate project, an application for initiating corporate insolvency resolution process against the corporate debtor shall be filed jointly by not less than one hundred of such allottees under the same real estate project or not less than ten per cent. of the total number of such allottees under the same real estate project, whichever is less:

Provided also that where an application for initiating the corporate insolvency resolution process against a corporate debtor has been filed by a financial creditor referred to in the first and second provisos and has not been admitted by the Adjudicating Authority before the commencement of the Insolvency and Bankruptcy Code (Amendment) Act, 2020, such application shall be modified to comply with the requirements of the first or second proviso within thirty days of the commencement of the said Act, failing which the application shall be deemed to be withdrawn before its admission.]

Explanation.--For the purposes of this sub-section, a default includes a default in respect of a financial debt owed not only to the applicant financial creditor but to any other financial creditor of the corporate debtor.”

12. It is submitted that the Financial creditors-“Home buyers and other Financial creditor” fulfil the criteria / limit under Section 4 of the 'I&B' Code. Further, stipulating that an application for initiating corporate insolvency resolution process against the corporate debtor shall be filed jointly by not less than one hundred of such allottees under the same real estate project or not less than 10% of the total number of such allottees under the same real estate project, whichever is less. In the present case, there were total of 573 units in

the project to be sold to 573 allottees out of whom these flats/plots were allotted, to 77 home buyers/77 units, i.e. more than 10% of the total units/allottees who have approached this Authority for the redressal of their grievances. In view of the judgement of the Hon'ble Supreme Court of India in ***Manish Kumar Vs. Union of India (UOI) and Ors. Writ Petition (C) No.26 of 2020 dated 19.01.2021***, the petitioners being more than 10% of Home Buyers are eligible to file the present petition under Section 7 of the IBC, 2016. Moreover, no such objection on the maintainability of the petition has been raised by respondent as it proceeded against ex parte. Thus, the application filed in the prescribed Form No.1 is found to be complete.

13. In the given facts and circumstances, the present petition being complete and having established the default in payment of the Financial Debt and default amount being above threshold limit, the petition is admitted in terms of Section 7(5) of the IBC and accordingly, moratorium is declared in terms of Section 14 of the Code. As a necessary consequence of the moratorium in terms of Section 14, the following prohibitions are imposed, which must be followed by all and sundry:

- “(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;
- (c) Any action to foreclose, recover or enforce any security interest created by the corporate debtor in respect of its

property including any action under the Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002;

- (d) The recovery of any property by an owner or lessor, where such property is occupied by or in the possession of the corporate debtor.
- (e) It is further directed that the supply of essential goods or services to the corporate debtor as may be specified, shall not be terminated or suspended or interrupted during moratorium period.
- (f) The provisions of Section 14(3) shall however, not apply to such transactions as may be notified by the Central Government in consultation with any financial sector regulator and to a surety in a contract of guarantee to a corporate debtor.
- (g) The order of moratorium shall have effect from the date of this order till 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.”

14. The Law Research Associate of this Tribunal has checked the credentials of Mr. Amarpal and there is nothing adverse against him. In view of the above, we appoint Mr. Amarpal, Registration No. IBBI/IPA-001/IP-P01584/2018-2019/12411, R/o C-2, Plot-50, Gyan Khand-II, Indirapuram, Ghaziabad, Email: amarpal@icai.org, Mobile No. 9717105008 as

the Interim Resolution Professional. The IRP is directed to take the steps as mandated under the IBC, specially under Sections 15, 17, 18, 20 and 21 of IBC, 2016.

15. The Interim Resolution Professional shall after collation of all the claims received against Corporate Debtor and the determination of the financial position of the Corporate Debtor constitute a Committee of Creditors and shall file a report, certifying constitution of the Committee to this Tribunal on or before the expiry of thirty days from the date of his appointment, and shall convene first meeting of the Committee within seven days of filing the report of Constitution of the Committee. The Interim Resolution Professional is further directed to send regular progress reports to this Tribunal every fortnight.

16. This Adjudicating Authority directs the ex-management and promoters of the corporate debtor to specifically comply with the provisions of the Sub Regulation (2) of Regulation 4 of the Insolvency Resolution Process for Corporate Persons Regulations, 2016. The Interim Resolution Professional is directed to make a specific mention of any non-compliance in this regard in his status report filed before this Bench and move an application seeking appropriate remedy, if required. This is imperative for meeting the Code's objectives for maximising the value of the assets of the corporate debtor and by completing the resolution process in a time-bound manner.

17. We direct the Financial Creditors to deposit a sum of ₹1,50,000/- (Rupees One Lakh Fifty thousand Only) with the Interim Resolution Professional, to meet out the expense to perform the functions assigned to him in accordance with Regulation 6 of Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Person) Regulations, 2016. The amount, however, is subject to adjustment by the Committee of Creditors as

accounted for by the Interim Resolution Professional on the conclusion of CIRP.

18. A copy of order shall be communicated to both the parties. The learned counsel for the petitioner shall deliver a copy of this order to the Interim Resolution Professional forthwith. The Registry is also directed to send a copy of this order to the Interim Resolution Professional at his e-mail address forthwith.

19. The present petition is allowed and admitted accordingly.

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

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

August 16, 2022
AV/ASH