



IN THE NATIONAL COMPANY LAW TRIBUNAL
KOCHI BENCH
KOCHI

IA (IBC) No. 74/KOB/2023

In

C.P (IB) No. 01/KOB/2021

In the Matter of:

Application under Section 33(1)(a) & 34 of the Insolvency and Bankruptcy Code, 2016 for an order of liquidation against the Corporate Debtor.

-And-

In the Matter of:

Dileep K. P, Resolution Professional of Nucleus Premium Properties Pvt. Ltd, Veluthedath House, Ponnuruni, Vyttila, Cochin, Kerala – 682 0119

... Applicant/Resolution Professional

-In-

In the Matter of:

Anoop John, Blessy and Ors;

...Financial Creditor

-Versus-

Nucleus Premium Properties Pvt. Ltd

...Corporate Debtor

Coram:

Shri P. Mohan Raj : Member (Judicial)

Shri Satya Ranjan Prasad : Member (Technical)

Appearances (through video conference):

For the Applicant/RP : Mr. N.R. Krishnan Unni, Adv.

Order reserved on: 22.02.2023
Order pronounced on: 17.03.2023



ORDER

1. The present Application has been filed by Mr. Dileep K. P, Resolution Professional of Nucleus Premium Properties Pvt Ltd. (hereinafter referred to as “Corporate Debtor”). The Corporate Insolvency Resolution Process (CIRP) against the Corporate Debtor under section 7 of IBC,2016 was admitted by this Adjudicating Authority on 18.11.2021 and Mr. Dileep K.P. was appointed as an Interim Resolution Professional. Subsequently, the applicant was appointed as Resolution Professional in the 1st COC meeting held on 30.12.2021 and approved by this Adjudicating Authority by order dated 03.02.2022.
2. In pursuance of CIRP order the IRP effected public announcement in Newspapers in English in ‘Business Line’ and in Malayalam in ‘Mathrubhumi’ Kochi Edition.
3. The resolution professional had invited Expression of Interest from Prospective Resolution Applicants who were interested in reviving CD, by public announcement in Form G. The last date for receipt of Expression of interest was 09.04.2022. The RP received two bids including one from the Ex-promoter/suspended director of the CD. In the 3rd CoC meeting held on 22.04.2022 decided to invite one more bid so as to have wider participation by Prospective Resolution Applicants. Therefore, a second EOI application was invited by giving an advertisement on 26.04.2022. The last date of receipt application was 10.05.2022.
4. The request of resolution plan (RFRP) was issued to the Prospective resolution applicant (PRA) requesting to submit the resolution plan latest by 18.06.2022. Subsequently, project-wise virtual meetings of Home buyers/allottees were conducted during the period 28.05.2022 to 1.06.2022 in order to have introductory meetings with the PRA. The resolution plan



was put to voting by the home buyers through electronic voting on 18.09.2022 and 19.09.2022. Out of 199 home buyers, 188 home buyers having a voting share of 92.55% participated in the voting and 99.13 % of the home buyers who participated in the voting rejected the resolution plan. State Bank of India with 1.22 % voting right and Urban Cooperative Bank, Perinthalmanna with 2.34 % also voted against the resolution plan. Hence the resolution plan was rejected in the 6th CoC meeting held on 23.09.2022 with 100% voting rights.

5. An e voting was conducted on 25.09.2022 and 26.09.2022 wherein 99.76% of the home buyers who participated in the electronic voting in favour of project-wise resolution . Accordingly, the authorized representative voted in favour of the resolution with 100% voting. State Bank of India with 1.25% voting right voted in favour of the project-wise resolution as they are holding a security in the name of corporate debtor. Urban Cooperative Bank, Perinthalmanna (with 2.24% voting right) advised that they are having securities in the personal name (Father of Mr. Nishad, Director). Therefore, they advised that they are opting out of the resolution process and accordingly voted against the resolution.
6. The 7th CoC meeting held on 28.09.2022 approved the proposal for project wise was resolution by permitting respective project allottees to submit a resolution plan with 97.66% voting right. This Adjudicating Authority also accepted on 04.11.2022 the plea of the RP to approve the application on Project wise resolution in terms of Regulation 37 (m) of IBBI regulations.
7. The 8th CoC meeting held on 14.11.2022, based on the approval by 76.36% voting share of home allottees decided that the Resolution Professional to publish one more form G inviting Expression of interest for the revival of the corporate debtor as a whole or project-wise resolution as per the RFRP



terms. The RFRP terms approved by the 8th CoC also specified that the holistic resolution will be given priority over project wise resolution in the interest of revival of the CD.

8. In response to, Form G inviting Resolution Plan published on 15.11.2022 in the New Indian Express, All Kerala Edition and Mathrubhumi Daily Kochi Edition. The resolution plans submitted by the two holistic resolution applicants were found to be in compliance with the IBC, 2016.
9. Both resolution plans failed to get more than 50% of the voting share in the e-voting held on 28.01.2023 & 29.01.2023. In terms of regulation 39 (3) (B) of IBBI (Insolvency Resolution Process for Corporate Process) Regulations, 2016 where none of the resolution plans received requisite votes, the committee shall again vote on the resolution plan that received the highest votes, subject to the timelines under the Code. The CoC decided to re-voting of the Resolution Plan. The re- voting was conducted on 02.02.2023 and 03.02.2023 and not secured required voting.
10. Since both the resolution plans failed and the Plan A which received higher votes also failed in the revoting. The 10th CoC meeting held on 04.02.2023, deliberated on the future course of actions. The Extended CIRP period expires on 10.02.2023. The CIRP has exhausted all time line available in the IBC, 2016 and Regulations thereunder. Maximum CIRP period of 330 days mandated in the Code and 120 days exclusion period which were approved by this Tribunal. Overall, the process will complete 450 days as on 10.02.2023.
11. The Resolution Plans received in this case were rejected by CoC, the maximum time limit also exhausted and left with no other option the Applicant/RP filed this application under Section 33 (1) for liquidation.



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12. The prayer regarding unpaid CIRP cost is concern it is distinct and separate relief, this is not consequential relief, hence applicant is required to file separate application in this regard if so advised.
13. In the result, the **Nucleus Premium Properties Pvt. Ltd**, Corporate Debtor is **ordered to be liquidated**.
- i. The applicant, Resolution Professional of Corporate Debtor, **Nucleus Premium Properties Pvt. Ltd**, **Mr. Dileep K.P**, having his office at – Veluthedath House, Ponnurunni , Vytilla P.O., Kochi – 682019 , Mob No : 9947357200, has given a written consent to appoint him as a Liquidator as required under Section 31 A of IBC, 2016. Hence, Mr. Dileep K.P, with Registration No: IBBI/IPA-001/IP-P01310/2018-2019/12220 and **Email Id: kpdileep57@gmail.com** is appointed as liquidator of Corporate Debtor **Nucleus Premium Properties Pvt. Ltd**.
 - ii. The Liquidator is directed to forthwith take into his custody all the assets, Properties, and actionable claims of the corporate debtor and take necessary steps to ensure preservation, protection security and maintenance of those properties as provided under section 35(1)(b) & (d) of IBC 2016.
 - iii. The Liquidator is directed to adhere to Section 33(1) (ii) & (iii) and discharge his powers and duties as specified under Section 35 to 41 of IBC, 2016 and meticulously adhere to the Rules and Regulations issued by IBBI in this regard from time to time.
 - iv. Public Notice as contemplated under section 33(1) of the Code shall be issued in one morning, English daily and in one morning regional language newspapers.
 - v. All the powers of the Board of Directors of the Corporate Debtor and of its key managerial personnel, shall cease to exist in accordance with Section 34 (2) of the Code. These powers shall henceforth vest in the Liquidator. The



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personnel of the Corporate Debtor shall extend all assistance and cooperation to the Liquidator as may be required by him in the Liquidation process of the Corporate Debtor.

- vi. On initiation of the Liquidation process but subject to section 52 of the Code, no suit or other legal proceeding shall be instituted by or against the Corporate Debtor, save and except the liberty to the liquidator to institute a suit or other legal proceeding on behalf of the Corporate Debtor with prior approval of this Adjudicating Authority, as provided in section 33(5) of the Code read with its proviso.
- vii. In accordance with section 33(7) of the Code, this liquidation order shall be deemed to be a notice of discharge to the officers, employees and workmen of the Corporate Debtor, except to the extent of the business of the Corporate Debtor continued during the liquidation process by the liquidator.
- viii. In terms of Section 33(1) (b) (iii), the Liquidator shall file a copy of this Order with the Registrar of Companies, Kerala, within whose jurisdiction the Corporate Debtor is registered.
- ix. The fee of Liquidator to be determined as provided under Regulation 4 of Insolvency and Bankruptcy Board of India (Liquidation Process) Regulation 2016.
- x. As per Regulation 13 of Insolvency and Bankruptcy Board of India (Liquidation Process) Regulation, 2016, the liquidator shall submit a preliminary report to the Adjudicating Authority within 75 days from the liquidation commencement date providing various details/information as mentioned in the said regulation.



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- xi. The Registry is directed to send e-mail copies of the order forthwith to all the parties and their Ld. Counsel for information and for taking necessary steps,
- xii. Certified Copy of this order may be issued, if applied for, upon compliance of all requisite formalities.

SATYARANJAN PRASAD Digitally signed by SATYARANJAN PRASAD
Date: 2023.03.17 15:56:49 +05'30'

Satya Ranjan Prasad
Member (Technical)

PANDIAN MOHAN Digitally signed by PANDIAN
MOHAN RAJ
Date: 2023.03.17 15:15:04 +05'30'
RAJ

P. Mohan Raj
Member (Judicial)

Signed on this 17th day of March, 2023.

Supriya_P.S