

NATIONAL COMPANY LAW APPELLATE TRIBUNAL,
PRINCIPAL BENCH, NEW DELHI

Company Appeal (AT) (Insolvency) No. 1186 of 2025 &
I.A. No. 4981, 5133 of 2025

(Arising out of Order dated 05.08.2025 passed by the Adjudicating Authority (National Company Law Tribunal), New Delhi, Court-III (Special Bench) in C.P.(IB) No.112(ND)/2025)

IN THE MATTER OF:

Amit Jain, (Suspended Director of
Mahagun (India) Pvt. Ltd.)

...Appellant

Versus

IDBI Trusteeship Services Ltd. & Anr.

...Respondents

Present:

For Appellant : Mr. Abhijeet Sinha Sr. Advocate with Mr. Gaurav Mitra, Mr. Gaurav H. Sethi, Mr. Anmol Joshi, Mr. Rahul Kapoor and Mr. Rahul Panwar, Advocates.

For Respondents : Mr. Krishnendu Dutta, Sr. Advocate with Mr. Somdutta Bhattacharya, Ms. Kiran Sharma and Ms. Niharika Sharma, Advocates for R-1.

Mr. Malak Bhatt, Ms. Neeha Nagpal, Mr. Saahil Bahety and Ms. Somya Saxena, Advocates for RP.

Mr. Sumesh Dhawan, Mr. Aman Sharma and Mr. Shaurya, Advocates for Homebuyers.

Mr. Gaurav Rana, Mr. Ajitesh Kumar, Mr. Shivanshu Srivastava, Advocates in Applicant in IA- 4981 of 2025.

Mr. Adhish Srivastava, Advocate in I.A. 5283/2025.

Mr. Sujoy Datta and Mr. Jasjeet Singh and Mr. Shubham Raghuwanshi, Advocates for Applicant in IA- 6031 of 2025.

Mr. Harsha Gollamudi, Mr. Varad Dwevedi, and Mrs. Pratima Singh, Advocates for Intervener in I.A. No. 6304 & 6305 of 2025.

Mr. Gopal Jain Sr. Advocate with Mr. Sanjeev Singh, Mr. Anish Gupta and Ms. Sandipa Bhattacharjee, Advocates for interveners in IA5133 of 2025.

WITH

Company Appeal (AT) (Insolvency) No. 1254 of 2025

(Arising out of Order dated 04.08.2025 passed by the Adjudicating Authority (National Company Law Tribunal), New Delhi, Court-III (Special Bench) in IA No.53 of 2025 in Company Petition (IB)-112(ND)/2025)

IN THE MATTER OF:

Aditya Birla Capital Ltd.

...Appellant

Versus

IDBI Trusteeship Services Ltd. & Anr.

...Respondents

Present:

For Appellant : Mr. Ashim Sood, Mr. Varun Kalra and Mr. Ekansh Gupta, Advocates for ABCL.

**For Respondents : Mr. Abhijeet Sinha Sr. Advocate with Mr. Gaurav Mitra, Mr. Gaurav H. Sethi, Mr. Anmol Joshi, Mr. Rahul Kapoor and Mr. Rahul Panwar, Advocates.
Mr. Malak Bhatt, Ms. Neeha Nagpal, Mr. Saahil Bahety and Ms. Somya Saxena, Advocates for RP.**

WITH

Company Appeal (AT) (Insolvency) No. 1258 of 2025

(Arising out of Order dated 05.08.2025 passed by the Adjudicating Authority (National Company Law Tribunal), New Delhi, Court-III (Special Bench) in Company Petition (IB)/112(ND)/2025)

IN THE MATTER OF:

Aditya Birla Capital Ltd.

...Appellant

Versus

IDBI Trusteeship Services Ltd. & Anr.

...Respondents

Present:

For Appellant : Mr. Ashim Sood, Mr. Varun Kalra and Mr. Ekansh Gupta, Advocates for ABCL.

**For Respondents : Mr. Abhijeet Sinha Sr. Advocate with Mr. Gaurav Mitra, Mr. Gaurav H. Sethi, Mr. Anmol Joshi, Mr. Rahul Kapoor and Mr. Rahul Panwar, Advocates.
Mr. Malak Bhatt, Ms. Neeha Nagpal, Mr. Saahil Bahety and Ms. Somya Saxena, Advocates for RP.**

WITH

Company Appeal (AT) (Insolvency) No. 1314 of 2025

(Arising out of Order dated 05.08.2025 passed by the Adjudicating Authority (National Company Law Tribunal), New Delhi, Court-III (Special Bench) in C.P.(IB)No.112(ND)/2025)

IN THE MATTER OF:

Manorialle Social Welfare Society

...Appellant

Versus

IDBI Trusteeship Services Ltd. & Anr.

...Respondents

Present:

For Appellant : Mr. Gopal Jain Sr. Advocate with Mr. Sanjeev Singh, Mr. Anish Gupta and Ms. Sandipa Bhattacharjee, Advocates

For Respondents : Mr. Abhijeet Sinha Sr. Advocate with Mr. Sanjeev Singh, Mr. Anish Gupta and Ms. Sandipa Bhattacharjee, Advocates.

Mr. Malak Bhatt, Ms. Neeha Nagpal, Mr. Saahil Bahety and Ms. Somya Saxena, Advocates for RP.

J U D G M E N T

ASHOK BHUSHAN, J.

All these Appeal(s) (except Company Appeal No.1254 of 2025) have been filed against the same order dated 05.08.2025 passed by National Company Law Tribunal, New Delhi, Court-III in IB-112(ND)/2025. By the impugned order, the Adjudicating Authority has admitted Section 7 petition filed by IDBI Trusteeship Services Ltd. against the Corporate Debtor (“**CD**”) - Mahagun (India) Pvt. Ltd. Aggrieved by the above order, these Appeal(s) have been filed.

2. Company Appeal (AT) (Ins.) No.1186 of 2025 has been filed by Amit Jain, Suspended Director of the CD praying for setting aside the impugned order with other prayers, which we shall notice hereinafter. Company Appeal (AT) (Ins.) No.1314 of 2025 has been filed by Manorialle Social Welfare Society, a Registered Society representing 195 homebuyers of the residential project – “Mahagun Manorialle” situated in Sector-128, Noida. The Appellant Manorialle Social Welfare Society also aggrieved by the order and has sought directions that Corporate Insolvency Resolution Process (“**CIRP**”) order passed by NCLT be confined only to the project - Mahagun Manorialle or in alternative it has been prayed that in event CIRP continued vide order dated 05.08.2025, it shall continue project-wise separately for each project. Company Appeal (AT) (Ins.) No.1254 of 2025 has been filed by Aditya Birla Capital Ltd., who claimed to be Financial Creditor of four real estate and commercial project across Delhi and NCR namely – Mahagun Metro Mall, Hotel Sarovar Portico, Mahagun Montage and Hotel Park Plaza, which are exclusively mortgaged to Aditya Birla Capital Ltd. Aditya Birla Capital Ltd. had filed IA No.53 of 2025 on 29.07.2025 before the Adjudicating Authority praying for intervention, highlighting the basic nature of its secured assets and urging that if CIRP were to be initiated it ought to be only with regard to the defaulting project. Vide order dated 04.08.2025, IA No.53 of 2025 was rejected by the Adjudicating Authority. Company Appeal (AT) (Ins.) No.1258 of 2025 has been filed by Aditya Birla Capital Ltd. challenging the order dated 05.08.2025, by which CIRP has been initiated against the CD. The

Appellant in the Appeal has prayed for direction that CIRP, if at all maintainable, be limited strictly to the defaulting project, which is subject matter of default under the Company Petition filed by IDBI Trusteeship Services Ltd.

3. Brief background facts giving rise to these Appeal(s) are:

- (i) Mahagun (India) Pvt. Ltd. is a real-estate company, incorporated in the year 1995 and primarily engaged in the real-estate business. In December 2020, the CD sought financial assistance from Asia Real Estate II India Opportunity Trust (“Debenture Holder”) by issuance of secured, senior, unrated, unlisted, redeemable, transferable, non-convertible debentures (“**NCD**”) of face value of Rs.10,00,000 each, aggregating upto Rs.355 crores. The Debentures were to be redeemed from 31.12.2022 to 31.12.2025.
- (ii) The CD committed default on redemption of Debentures on 30.09.2023. The IDBI Trusteeship Services Ltd. (“Financial Creditor”) issued recall/ default notice on 20.02.2024 and 17.04.2024 and Section 7 petition - IB-112(ND)/2025 was filed by the Financial Creditor on 31.01.2025 praying for initiation of CIRP against the CD for a default of Rs.256,48,85,907/-.
- (iii) In Section 7 petition, the Adjudicating Authority on 21.02.2025 issued notice to the CD. After the issuance of

aforesaid notice, Section 7 petition could be taken by the Adjudicating Authority on 13.06.2025 and on the request made by counsel appearing for the CD, one week's time was granted for filing the reply. The CD filed a short reply on 17.07.2025 raising objection to the maintainability of Section petition. After 13.06.2025, Section 7 petition came to be listed on 18.07.2025 before the Adjudicating Authority. On 18.07.2025, learned Counsel for the CD prayed for time for filing a detailed reply to Section 7 petition. The Adjudicating Authority did not accept the request of the CD to grant further time to file a reply to Section 7 petition and by order passed on the same date i.e. 18.07.2025, after granting liberty to the parties to file written submissions, restricting the arguments advanced by learned Counsel appearing for the parties, reserved the order. The written submission was filed on behalf of the CD.

- (iv) On 04.08.2025, the CD filed an application for postponement of judgment in the company petition. In the application it was pleaded that there are other projects of the CD having around more than 6000 homebuyers. It was also stated that in event two weeks' postponement is allowed to CD, the CD will complete the settlement process and avoid need for judgment in the company petition.

(v) On 05.08.2025, the Adjudicating Authority delivered the judgment and admitted Section 7 petition and appointed an Interim Resolution Professional (“**IRP**”). In the impugned order, the Adjudicating Authority noticed the request of the counsel for the CD for grant of time to file reply, which was not acceded to. The Adjudicating Authority noticed the submissions raised by the CD on the maintainability of Section 7 petition and rejected the prayer of CD for seeking additional time and the grounds raised on the maintainability of Section 7 petition regarding same having not filed by a valid authorized person, was rejected. The Adjudicating Authority held that the CD has not denied the debt and default and there is record of the information utility the default is mentioned. The Adjudicating Authority held that there is admitted default, therefore, petition is to be admitted. Aggrieved by the said order Company Appeal (AT) (Ins.) No.1186 of 2025 has been filed by the Suspended Director.

4. Learned Counsel appearing for the Appellant in Company Appeal (AT) (Ins.) No.1186 of 2025 submits that in the present case, the CD could not get ample opportunity to file the reply on merits of Section 7 petition. It is submitted that it is true that on 13.06.2025, which was the first date when the matter was taken up by the Adjudicating Authority, one week’s time was allowed to file a reply, but CD could not file a reply and only filed a short reply on 17.07.2025, raising objection regarding

maintainability of the application. It is submitted that request was made to grant opportunity to file a detailed reply, which was denied and Court proceeded to reserve the order on 18.07.2025 itself. It is submitted that the CIRP, which was sought by Financial Creditor was against a real-estate company, which has been carrying on large number of projects in NCR and Delhi. Some of the projects have been completed and possessions have also been handed over. There are more than eight projects of the CD. It is submitted that under the Debenture Trust Deed dated 10.12.2020, by which the CD had obtained NCD from Debenture Holder, it was confined to the project Mahagun Manorialle and default has been committed in the said project only. Other projects, which have different lenders, including Aditya Birla Capital Ltd., the commitments are being fulfilled and lenders are being serviced to their loans granted to the CD. Initiation of CIRP against all the projects will cause immense hardship to the homebuyers. There are more than 11,000 homebuyers in different projects. It is submitted that present is a case where the CD could not file a detailed reply and could not make submissions except submission made on the maintainability of the application. However, the Adjudicating Authority rejecting the prayer for grant of time, reserved the order and passed order of admission. Even on the date when order was pronounced, it was pointed out to the Court that an application has been filed on 04.08.2025 praying for postponement of two weeks' to enable the CD to settle with the Financial Creditor and further it was also pointed out that various projects are in progress. It is submitted that insolvency

of real-estate company has several aspects including jeopardising of the different projects. The Appellant has approached the Financial Creditor and they have settled the matter, due to the settlement entered on 21.08.2025, no case has been made out to continue with the CIRP of the CD, as on date. It is submitted that the Appellant be given an opportunity to file a reply. Learned Counsel for the Appellant has also placed reliance on the judgment of the Hon'ble Supreme Court in **Mansi Brar Fernandes vs. Shubha Sharma – Civil Appeal No.3826 of 2020** decided on 12.09.2025, where the Hon'ble Supreme Court has directed that insolvency of real-estate project is to be held project-sepcific. In the Appeal the Appellant has prayed for following reliefs:

- “A. Allow the instant Appeal and set aside the Impugned Order dated 05.08.2025 passed by the Hon'ble NCLT in C.P. (IB)NO.112 /ND/2025;
- B. To set aside and declare non est the appointment of Mr. Manoj Kumar Babulal Agarwal, Interim Resolution Professional (IBBI/IPA-001/IP-P00980/2017-2018/11613) of the Corporate Debtor as appointed vide Order dated 05.08.2025 passed by the Hon'ble NCLT, New Delhi Court – III in C.P. (IB)NO.112(ND)/2025;
- C. To grant ad-interim exparte/ad-interim stay of operation of the Impugned Order dated 05.08.2025 passed by the Hon'ble NCLT, New Delhi Court – III in C.P. (IB)NO.112(ND)/2025 including ad-interim stay on the appointment of the Mr. Manoj Kumar Babulal Agarwal, Interim Resolution Professional (IBBI/IPA-001/IP-P00980/2017-2018/11613) as the IRP of the Corporate Debtor and taking any further action in the CIRP including making any sort of public announcement, inviting claims

and constituting the Committee of Creditors -till the final disposal of the present Appeal;

- D. To set-aside the Impugned Order dated 05.08.2025 passed by the Hon'ble NCLT in C.P. (IB)NO.112(ND)/2025 and remand back the said petition for reconsideration by the Hon'ble NCLT, New Delhi Bench, Court - III for proper and just hearing with sufficient opportunity of being heard including opportunity to file a detailed reply to the Appellant.
- E. Pass any other order or order(s) relief or relief(s) as this Hon'ble Appellate Tribunal may deem fit and proper under the circumstances of the whole case may also kindly be granted.”

5. Learned Counsel for the Appellant appearing in Company Appeal (AT) (Ins.) No.1314 of 2025 submitted that the Appeal has been filed by Manorialle Social Welfare Society, which Society consists of 194 homebuyers of the project Mahagun Manorialle situated in Sector 128 Noida. It is submitted that initiation of CIRP vide order dated 05.08.2025 is contrary to the very objective of the Code and against the settled judicial precedents of the Hon'ble Supreme Court in **Indiabulls Asset Reconstruction Co. Ltd. v. Ram Kishore Arora & Ors. – (2023) SCC OnLine SC 612**. It is submitted that there are other projects of CD, which were distinct in terms of financing and no defaults existing for lenders of those projects. It is submitted that CIRP Regulation itself contemplates separate bank accounts, project-wise resolution plans. It is submitted that the impugned order frustrates the legitimate interest of homebuyers and their expectation of timely possession. It is also pleaded that lending by IDBI Trusteeship Services Ltd. was only with respect to project

Mahagun Manorialle and there being default in one project, the CIRP needs to be confined to only the project Mahagun Manorialle. The Appellant in the Appeal has prayed for following reliefs:

- “i) Direct that CIRP as ordered by the Hon'ble National NCLT, Bench-III (Special Bench), New Delhi in CP (IB)- I 12(ND)/2025 titled 'IDBI TRUSTEESHIP SERVICES LTD. v. Mahagun (India) Pvt. Ltd.' vide order dated 05.08.2025 shall confined only to the project "Mahagun Manorialle" situated at Plot No. B-9, Sector 128, JP Wish Town, Noida, U.P.; OR;
- ii) In alternate direct that in case the CIRP as ordered by the Hon'ble National NCLT, Bench-III (Special Bench), New Delhi in CP (IB)-1 12(NDy2025 titled 'IDBI TRUSTEESHIP SERVICES LTD. v. Mahagun (India) Pvt. Ltd.' vide order dated 05.08.2025 shall continue then the same shall be done project wise separately for each project; AND/OR;
- iii) To pass any such order that this Hon'ble Tribunal deems fit and necessary under the facts and circumstances of the present case.”

6. Learned Counsel for the Appellant appearing for Aditya Birla Capital Ltd. in Company Appeal (AT) (Ins.) No.1254 of 2025 submits that Aditya Birla Capital Ltd. has financed four projects of the CD namely - Mahagun Metro Mall, Hotel Sarovar Portico, Mahagun Montage and Hotel Park Plaza, which projects are operational and there has been no default in repayment. It is submitted that the Appellant has filed an Intervention Application No.53 of 2025 in the CIRP, which came to be rejected on 04.08.2025, without giving an opportunity of hearing to the Applicant. It is submitted that Aditya Birla Capital Ltd. has filed Company Appeal (AT) (Ins.) No.1258 of 2025 challenging the order of admission dated

05.08.2025, by which CIRP has been initiated against all the projects of the CD. Learned Counsel for the Appellant submits that the CIRP could not have been initiated against the project in which the financing have been given by Aditya Birla Capital Ltd., where the CD is servicing its debt and projects are proceeding in accordance with law. The Appellant in the Company Appeal (AT) (Ins.) No.1254 of 2025 has prayed for following reliefs:

- “(a) Allow the present appeal and set aside the Impugned Order dated August 4, 2025, passed by the Hon'ble National Company Law Tribunal, New Delhi Bench presided by Hon'ble Member Shri Bachu Venkat Balaram Das (J) and Hon'ble Member Shri Atul Chaturvedi (T), in Intervention Application No. 53 of 2025 in Company Petition (IB)/112/(ND)2025 in the matter of M/s Aditya Birla Capital Limited Vs. IDBI Trusteeship Services Limited.
- (b) Direct the Hon'ble National Company Law Tribunal, New Delhi to decide afresh the Intervention Application No. 53 of 2025 in Company Petition (IB)/112/(ND)2025 in the matter of M/s Aditya Birla Capital Limited Vs. IDBI Trusteeship Services Limited.
- (c) Pass any such order as this Hon'ble Tribunal may deem fit and proper in the interest of justice.

and in Company Appeal (AT) (Ins.) No.1258 of 2025 the Appellant has prayed for following reliefs:

- “(a) Allow the present appeal and direct that the CIRP, if at all maintainable, be limited strictly to the defaulting project(s) which form the subject matter of default under the Company Petition filed by Respondent No. 1;

- (b) Issue appropriate directions to the Resolution Professional and CoC to exclude from the scope of CIRP and moratorium those assets and projects of the Corporate Debtor which are performing, income-generating and secured in favour of the Appellant and in respect of which no default has occurred;
- (c) Grant interim relief(s), if necessary, staying the effect and operation of the Impugned Order and the CIRP initiated thereunder, insofar as it affects the Appellant's interest and secured assets, pending final disposal of this appeal;
- (d) Pass any such order as this Hon'ble Tribunal may deem fit and proper in the interest of justice.”

7. Shri Krishnendu Datta, learned Senior Counsel appearing for IDBI Trusteeship Services Ltd. submits that Section 7 petition was filed by IDBI Trusteeship Services Ltd. on account of default committed by the CD on 30.09.2023 with regard to redemption of Debentures. It is submitted that IDBI Trusteeship Services Ltd. has filed application there being debt and default. Shri Datta submits that after filing of this Appeal, the CD has approached the Financial Creditor and both the parties have entered into settlement dated 21.08.2025, which has been brought on record by joint application filed by the Suspended Director of the CD and the IDBI Trusteeship Services Ltd. in IA No.4984 of 2025.

8. In Company Appeal (AT) (Ins.) No.1186 of 2025 large number of applications have been filed by the homebuyers of Mahagun Manorialle project and other projects of the CD praying for intervention in this Appeal. We also need to notice details of the application and the case set-up by the Applicants.

9. **IA No.4788 of 2025** – This IA has been filed by Manorialle Social Welfare Society, which claimed to be Society of the project Mahagun Manorialle. The Applicant's case is that IDBI Trusteeship Services Ltd. is the only Financial Creditor of the project - Mahagun Manorialle apart from creditors-in-class. The case of the Applicant is that the CIRP is to be confined to the project Mahagun Manorialle only, which shall safeguard the interest of all homebuyers. It is pleaded that consolidating creditors of different categories and homebuyers of different/ unrelated projects of the CD will unnecessarily complicate the decision-making process and adversely affect the interest of stakeholders of under construction project i.e. Mahagun Manorialle. The management of the Society is authorized to institute the proceedings. In the project there are 350 units, of which 314 units have been sold and 183 flat owners are the member of the Applicant Society. In paragraphs 22 and 23 of the application, following has been pleaded:

“22. That it is the respectful submission of the Appellant that, as per information given in the present appeal, in addition to present project i.e., Mahagun Manorialle Project, Corporate Debtor also has following completed projects within its domain:-

- i) Mahagun Mywood - a residential project in which 6155 family are residing/have purchased flats;
- ii) Mahagun Montage - a residential project in which 836 family are residing/have purchased flats;
- iii) Mahagun Mascot - a residential project in which 1590 family are residing/ have purchased flats;

- iv) Mahagun Metro Mall - a commercial property built on 4,55,000 sq feet of land having multiple owners; and;
- v) Mahagun Sarovar Portico Suuits and Hotel Vaishali

23. That each of the aforesaid projects has distinct ownership and a separate set of lenders. The Applicant has been informed by the Corporate Debtor that there is no default in respect of the lenders who have extended credit facilities to Corporate Debtor against the security of any or all the above projects. It is, therefore, submitted that if, during the CIRP proceedings pursuant to the Impugned Order dated 05.08.2025, these unrelated projects are also brought within the ambit of the resolution process, it would not only unjustifiably disrupt the peaceful life of approximately 8,581 homebuyers who are in no way at fault but would also adversely affect the objective of maximization of the value of assets of Corporate Debtor.”

10. The Applicant has also placed reliance on the judgment of the Hon’ble Supreme Court in ***Indiabulls Asset Reconstruction Co. Ltd Vs Ram Kishore Arora and Ors.*** and has prayed for project-wise resolution.

11. **IA No.4981 of 2025** – This IA has been filed by Bipul Sinha and 18 Ors., who are allottees of Mahagun Mywoods (Marvella) project, situated in Sector-16C of Greater Noida (West). The Applicants’ case is that they have been given possession in the year 2021 of the units and their prayer is for direction to register Sale Deed in their favour. The applicant is praying for permitting intervention in the Appeal. The Applicant opposes any settlement between the Appellant and IDBI Bank. A piecemeal settlement, will be contrary to the equitable scheme of the Code. The Applicant supports the CIRP against the CD.

12. **IA No.4984 of 2025** – This IA has been jointly filed by Amit Jain, Suspended Director of the Mahagun (India) Pvt. Ltd. as Applicant No.1 and IDBI Trusteeship Services Ltd. as Applicant No.2. The Applicants in the application stated that after order of the admission of Section 7 petition, this Tribunal passed an interim order on 08.08.2025, where it is noted that the Appellant has sent a proposal to the Financial Creditors for settlement, the settlement between the Appellant and the Financial Creditor has been arrived on 21.08.2025 and a Settlement Agreement has been entered between the parties. In the IA, the Applicants have prayed for following reliefs:

- “a) Pass an order to take on record the Settlement Agreement dated August 21, 2025, entered into between Amit Jain, Dhiraj Jain, Shruti Jain and Divya Jain as suspended directors of Mahagun (India) Private Limited, IDBI Trusteeship Services Private Limited and the personal guarantors, which is annexed as 'Annexure-B' to this Application;
- b) Pass an order to keep the Admission Order dated August 5, 2025 passed by the Ld. Adjudicating Authority, as well as moratorium imposed upon the Corporate Debtor subsequent thereto under section 14 of the Insolvency and Bankruptcy Code, 2016, and all effects and consequences of such Admission Order, in abeyance, till December 15, 2025 or till such time that the fourth tranche payment is made as per Settlement Agreement, whichever is earlier;
- c) In alternative to prayer (b), pass an order to keep the Admission Order dated August 5, 2025 passed by the Ld. Adjudicating Authority in abeyance including all consequential proceedings emanating therefrom for a period of 2 (two) weeks to enable IDBI Trusteeship Services Private Limited/Financial Creditor to cause filing of an appropriate application under section 12A of the Insolvency and Bankruptcy Code, 2016 before the Ld. Adjudicating Authority seeking withdrawal of CIRP proceedings;
- d) This Hon'ble Appellate Tribunal be pleased to pass an order/orders to protect the interests of the Applicants in light of the submissions made hereinabove;
- e) Such further order(s) or direction(s) or relief(s) which this Hon'ble Tribunal may deem fit and proper in the

circumstances of the present case, in the interest and furtherance of justice;”

13. **IA No.5133 of 2025** – This IA has been filed by Manorialle Social Welfare Society seeking a direction that copy of IA No.4984 of 2025 jointly filed by Appellant and IDBI Trusteeship Services Ltd. be provided to the Applicant. In application following prayers have been made:

- i) Direct that the appellant shall supply the complete copy with annexures to the applicant society of the IA No.498412025 filed jointly by the appellant and respondent No.1 claiming to have entered a settlement interse between them after passing of admission order dated 05.08.2025; AND
- ii) Modify the order dated 22.08.2025 passed by this Hon'ble Tribunal in the present appeal to the extent that "The process may go on for "Mahagun Manorialle" project of the Corporate Debtor, however, no further steps shall be taken with regard to remaining projects of the Corporate Debtor; AND iii) The IRP shall continue to determine the voting share of the Financial Creditors of "Mahagun Manorialle" project of the Corporate Debtor; AND
- iii) The IRP shall continue to determine the voting share of the Financial Creditors of "Mahagun Manorialle" project of the Corporate Debtor; AND
- iv) Direct the interim resolution professional in terms of Regulation 6,4. to send communication along with a copy of public announcement made under Regulation 6, to all the remaining homebuyers of "Mahagun Manorialle" project who have still not filed their claims as per the last available books of accounts of the corporate debtor through post or electronic means wherever the information for communication is available and include their names as claimants notwithstanding such home buyers have not filed their claims.; AND
- v) Pass any such order as may be deemed fit and proper by this Hon'ble Tribunal.

14. **IA No.5283 of 2025** – This IA has been filed by Paras Gabba, a Power of Attorney holder of 103 homebuyers of Mahagun Montage. The Applicants claim to be allottee of the project of Mahagun Montage of the CD. The Applicants’ case is that CIRP be not set aside and financially

capable developer be deputed to carrying on to complete all projects and the Applicant seeks impleadment in the Appeal.

15. **IA No.5286 of 2025** – This IA has been filed by Krishan Chand Shukla claiming to be on behalf of 82 homebuyers with respect to project Crossings Republik. The Applicant pleads that CIRP be not stayed. It is pleaded that substantial payment by several homebuyers have been made and Agreement to Sell has been executed. The Applicant prayed for impleadment in the Appeal.

16. **IA No.6030 of 2025** – This IA has been filed by Jethmal Mehta and 07 Ors. The Applicants are allottees of project Mahagun Manorialle. It is pleaded that payment is almost complete. The Applicants pray for setting aside the order dated 05.08.2025 and made following prayer in the application:

- “a. Allow this intervention application and implead the Applicants as interveners in Company Appeal No. 1186 of 2025. AND
- b. Pass and order for setting aside order dated 05.08.25 passed by the NCLT, New Delhi-III in CP IB- C.P. (IB) No.112 (ND 2025) AND/OR
- c. Pass and order to confine the scope of the Corporate Insolvency Resolution Process to the said project- ‘Mahagun Manorialle’ located at Sector 128 of Noida alone only; and allow the Respondent and Financial Creditor to file joint application for settlement before NCLT as per the provisions of law.
- d. Pass any further order(s) deemed fit in the interests of justice and equity.”

17. **IA No.6031 of 2025** – This application has been filed by Mohsin Khan and Ors. (three homebuyers), who claimed to be allottees of project Mahagun Montage. The Applicants also pray to set aside the admission

order dated 05.08.2025. It is pleaded that there being settlement between IDBI Trusteeship Services Ltd. and the Appellant, CIRP need not proceed any further, as the default has now ceased to exist. It is submitted that Aditya Birla Capital Ltd. a Financial Creditor for four other projects has also filed the Appeal and stated that there is no default in any of the said projects. The Applicants have prayed following reliefs in the application:

- “i) That this Hon’ble Appellate Tribunal may be pleased to allow the present Application and implead the Applicants as a proper and necessary party/ respondent to the present proceedings; AND
- ii) That this Hon’ble Appellate Tribunal may be pleased to set aside the order dated 05.08.2025 passed by the Hon’ble National Company Law Tribunal, Principle Bench, New Delhi in CP (IB)-112(ND)/ 2025 titled ‘IDBI Trusteeship Services Ltd. v. Mahagun (India) Pvt. Ltd.’, OR IN THE ALTERNATIVE
- iii) That this Hon’ble Appellate Tribunal may be pleased to direct that Corporate Insolvency Resolution Process as ordered by the Hon’ble National Company Law Tribunal, Principle Bench, New Delhi in CP (IB)- 112 (ND)/ 2025 titled ‘IDBI Trusteeship Services Ltd. v. Mahagun (India) Pvt. Ltd.’ vide order dated 05.08.2025 shall be restricted to only the “Mahagun Manorialle” project of Mahagun (India) Pvt. Ltd. situated at Plot No. B-9, Sector 128, JP Wish Town, Noida, U.P., AND;
- iv) Pass any such order as may be deemed fit and proper as this Hon’ble Tribunal.”

18. **IA No.6032 of 2025** – This application has been filed by Rajat Khare and Ors. (ten homebuyers), who claimed to be allottee of project – “Mahagun Mywoods”. The Applicants’ case is that Applicants are in possession of the respective units and hold valid allotment letters. The Applicants seek intervention and also seek direction to register Sale Deed in favour of respective apartment owners. The Applicants seek direction to restrict the CIRP to project Mahagun Manorialle of CD only, situated in Sector-128.

19. **IA No.6260 of 2025** – This application has been filed by Ankur Sharma and Ors. (12 homebuyers), who claimed to be allottees of Mahagun Mywoods (Marvella) project of the CD. It is pleaded that although the Applicants have been allotted the flats/ dwelling units, but the registry has not yet been done of the units. Hence, to protect their rights, they have filed the application to intervene in the proceeding. The Applicants' case is that to protect their interest CIRP needs to be continued.

20. **IA No.6304 of 2025** – This application has been filed by Krishan Chand Shukla. The Applicant highlights the delay in handing over the possession of the units to the respective homebuyers with respect to township named "Crossings Republik", which came to be promoted by Mahagun (India) Pvt. Ltd. It is pleaded that claims have been filed in the CIRP of the CD. The Applicant seeks liberty to intervene in the proceedings to protect the interest of the homebuyers.

21. The details of various Applicants and the prayers made in their application as noted above clearly indicate that applications have been filed by the homebuyers, who belong to Mahagun Manorialle project and other projects of the CD. With respect to Mahagun Manorialle project, the homebuyers of the said project have prayed for setting aside the admission order by filing an Appeal through Manorialle Social Welfare Society and some of the homebuyers have filed the applications praying for confining the CIRP only to the current project. Homebuyers with respect to other projects are divided-lot, some of the Applicants prayed

that CIRP be allowed to continue against the CD, including all the projects, whereas some homebuyers of other projects of the CD have also filed application for setting aside the admission order. Some of the Applicants have claimed that they are already in possession of the units and only requirement is direction for registration of Sale Deed.

22. We have heard learned Counsel for the Appellant(s) appearing on behalf of Suspended Director; Aditya Birla Capital Ltd.; Manorialle Social Welfare Society; learned Counsel appearing for IDBI Trusteeship Services Ltd.; as well as learned Counsel appearing for Respondent and learned Counsel appearing for Intervenors.

23. We first need to notice the details of the proceedings in IB-112(ND)/2025. The first submission of the Appellant appearing for Suspended Director of the CD is that 18.07.2025 was the second date when the petition was taken up, on which date a request was made to grant time for filing a reply, since only short reply was filed on 17.07.2025, which too was not on record, but Adjudicating Authority rejected the prayer and proceeded to reserve the order. Hence, adequate opportunity was not allowed to the Appellant to oppose the CIRP. The Adjudicating Authority in the impugned order itself has noticed the proceeding in Section 7 petition. The Adjudicating Authority in the impugned order has observed that on 21.02.2025, the notices were issued and after 21.02.2025 the petition was taken by the Court for the first time on 13.06.2025 and on request made by Counsel for the CD, one week's time was allowed to file reply. The above is noted in paragraph 4(ix). The

18.07.2025 was the next date, on which counsel for the Appellant informed that a short reply raising preliminary objection has been filed, which is also not on the record. The Adjudicating Authority proceeded to hear the matter and reserved the order on 18.07.2025. Order dated 18.07.2025 is as follows:

“We have heard the submissions of Mr. Krishnendu Datta, Learned Senior Counsel appearing on behalf of Applicant and Mr. Gaurav Mitra, Learned Counsel appearing on behalf of Respondents.

The parties are at liberty to file the written submissions restricted to the arguments advanced by the Ld. Counsel appearing on behalf of both the parties within three days.

Order reserved.”

24. After 18.07.2025, the CD filed written submissions dated 30.07.2025, which is brought on the record, wherein apart from submissions made on non-maintainability of the petition, impact on other projects and secured lenders/ allottees were raised. Paragraphs 14 to 20 of the written submission are as follows:

“14. It is submitted that the debenture trust deed dated 10.12.2020 was executed between the Financial Creditor & Corporate Debtor with respect to only the project Mahagun Manorial situated at sector 128 Noida. It is pertinent to mention here that there are other projects like 'Mahagun Mywoods' having around more than 6000 customers situated at GH-04, Sector-16C, Greater Noida, 'Mahagun Montage' having around 800 customers situated at Crossing Republic Dundaheera, Ghaziabad, 'Mahagun Metro Mall' at Plot no VC-03, Vaishali, Ghaziabad, 'Mahagun Corporate Office' at A-19, Sector-63, Noida, which are constructed /being constructed/ maintained by Corporate Debtor i.e., Mahagun India Private Limited and apart from IDBI Trusteeship Services Limited there are other secured lenders namely HDFC Bank Limited, Aditya Birla Capital Limited, Phoenix Capital India Pvt Ltd who have given Loan/Financial Assistance to Corporate Debtor (Mahagun India Pvt Ltd) and the Corporate Debtor is maintaining financial discipline with all secured lenders.

15. Without prejudice to the aforesaid objection it is pertinent to mention here that the rights of the other secured lenders & allottees as enumerated above will be adversely affected in case this Hon'ble tribunal admits the captioned petition of the financial creditor.

16. That the rights of almost 300 allottees of the subject project namely Mahagun Manorialle will also be adversely affected in case this Hon'ble tribunal admits the captioned petition of the financial creditor.

17. That in case this Hon'ble tribunal admits the captioned petition against financial creditor that is Mahagun India Pvt Limited as whole it would cause hardship to other secured lender & Home Buyers of other projects who are eagerly waiting for possession of their dream Flat. The other projects of Mahagun India Pvt Ltd should not be hindered and be allowed to be continued as ongoing projects.

18. Without prejudice to the arguments taken above, in the context of Real Estate Companies, the Hon'ble Courts have repeatedly frowned upon placing the entire company into insolvency and have restricted CIRP proceedings to the particular project concerned, and not affect other projects of the same Corporate Debtor. The Corporate Debtor relies on the consistent judicial precedent supporting project-wise CIRP in such cases:

i. In *Ambika Prasad Sharma Erstwhile director of Horizon Buildcon Pvt. Ltd. Vs. Horizon Bui/dcon Pvt. Ltd.*, Company Appeal (AT) (Insolvency) No. 1398 of 2019, the NCLAT specifically observed that "the CIRP should be Project based and be confined to the subject Project only". This observation was made to ensure the maximization of assets of that paiticular project for balancing the creditors, including allottees, financial institutions, and operational creditors, of that specific project.

ii. The principle was reiterated in *Arun Kumar v. Ms. Sripriya Kumar & Ors.*, Company Appeal (AT) (CH) (Ins) No. 431/2022. The NCLAT Chennai Bench held that the Adjudicating Authority was correct in confirming project-wise CIRP for 'Arun Auroville' as it had attained finality, not having been challenged. The Tribunal explicitly affirmed that "CIRP can be confined to one project in a Real Estate Company where the interest of homebuyers is also required to be fulfilled and liabilities of the Financial Creditors are to be met". This view was supported by precedents such as *Flat Buyers Association Winter Hills - 77, Gurgaon Vs. Umang Rea/tech Pvt. Ltd.* [(2020) SCC Online NCLAT 1199], *Dharmesh S Jain Vs. SREI Equipment Finance Limited* (Company Appeal (AT) (Ins) No. 697/2022), and *Superteccli Limited VS. Union Bank of India and Anr.* (Company Appeal (Ins) No. 406/2022).

Most recently, in *Navin M. Raheja v. Vipul Jain & Ors.*, Company Appeal (AT) (Insolvency) No. 2168 of 2024, the

NCLAT Principal Bench again ordered that "for the time being as was prayed by the Applicant/Respondent herein, the insolvency may convene to one Project namely Raheja Shilas (Low Rise)". The IRP was directed to collate claims specifically for this project and work towards its completion and obtaining Occupancy Certificate.

19. Without prejudice to our contentions, it is most Humbly and respectfully submitted that the corporate debtor is trying to settle the matter with financial creditor amicably and hope that the same shall be settled shortly.

20. In light of the above, it is most respectfully prayed that this Hon'ble Tribunal be pleased to dismissed the captioned C.P(IB) No. 112/2025 filed by the Financial Debtor on the ground lack of authority or alternatively, grant time to the Respondent to file its detailed reply."

25. On 04.08.2025, an application was filed by the Applicant praying for postponement of judgment for two weeks, in which application in paragraphs 4 to 11, following was stated:

"4. That the corporate debtor was in continues negotiations with the financial creditor and thereafter reached an preliminary understanding to settle the dispute with financial creditor, but require two week more time to finalize the settlement agreement and obtain the necessary signatures.

5. That the debenture trust deed dated 10.12.2020 was executed between the financial Creditor & Corporate Debtor with respect to only the the project Mahagun Manorial situated at sector 128 Naida. It is pertinent to mention here that there are other projects like 'Mahagun Mywoods' having around more than 6000 customers situated at GH-04, Sector-16C, Greater Naida, 'Mahagun Montage' having around 800 customers situated at Crossing Republic Dundahera, Ghaziabad , 'Mahagun Metro Mall' at Plot no VC-03, Vaishali, Ghaziabad, 'Mahagun Corporate Office' at A-19, Sector-63, Naida, which are constructed /being constructed/ maintained by Corporate debtor i.e., Mahagun India Private Limited and apart from IDBI Trusteeship Services Limited there are other secured lenders namely HDFC Bank Limited , Aditya Birla Capital Limited, Phoenix Capital India Pvt Ltd who have given Loan/Financial Assistance to Corporate Debtor (Mahagun India Pvt Ltd) and the Corporate Debtor is maintaining financial discipline wit,h all other secured lenders.

6. Without prejudice to the aforesaid objection it is pertinent to mention here that the rights of the other secured lenders & allottees as enumerated above will be adversely affected in case this Hon'ble tribunal admits the captioned petition of the financial creditor.

7. That in case this Hon'ble tribunal admits the captioned petition against financial creditor that is Mahagun India Pvt Limited as whole it would cause -hardship to or other secured lender & Home Buyers of other projects who are eagerly waiting for possession of their dream Flat. The other projects of Mahagun India Pvt Ltd should not be hindered and be allowed to be continued as ongoing projects.

8. That granting a two week postponement of judgment will allow the corporate debtor to complete the settlement process and avoid the need for a judgment in aforesaid company petition bearing no. (IB) NO. 112 OF 2025.

9. That no prejudice shall be caused to the financial creditor in case this Hon'ble Tribunal defers the pronouncement of final Judgment/ Order for next two weeks.

10. That the present application is filed bona fide and in the interest of justice.

11. In view of the above, it is most humbly and respectfully prayed that this Hon'ble Tribunal may kindly be pleased to defer the pronouncement of final judgment/order for next two weeks otherwise the corporate debtor, allottees & secured lender shall suffer irreparable loss and injury.”

26. The above application was not listed on 04.08.2025, nor could be listed on 05.08.2025, when the judgment was delivered.

27. We also notice that Aditya Birla Capital Ltd. has also filed an application IA No.53 of 2025 seeking intervention before the Adjudicating Authority, pleading that it has financed four projects of the CD, which projects are operational. In the application Aditya Birla Capital Ltd. gave details of the projects and also pleaded that the said projects which are financed by the Aditya Birla Capital Ltd. are not in default. It is submitted that other projects need not be affected by default committed to the IDBI Trusteeship Services Ltd. The Applicant - Aditya Birla Capital Ltd. in the application pleaded that project-wise CIRP be initiated or the assets charged to the Aditya Birla Capital Ltd. be excluded. The said

application was rejected by the Adjudicating Authority observing that pre-admission stage, no intervention or impleadment can be allowed.

28. On 08.08.2025, this Tribunal passed following interim order, which order has been continued from time to time:

“08.08.2025: Learned counsel for the appellant submits that appellant has sent proposal to the financial creditor for settlement and, therefore, appeal be adjourned to 22.08.2025.

2. Learned counsel for the homebuyers seeks liberty to file the intervention application, which may be done before the next date fixed.

3. Learned counsel appearing for the lender – Aditya Birla Capital Ltd. submits that they are proposing to file an appeal.

As prayed, list this appeal on 22nd August, 2025.”

29. From the facts brought on record, it is clear that the CD apart from project - Mahagun Manorialle has also running several other projects in NCR. In paragraph 7.10 of the Company Appeal (AT) (Ins.) No.1186 of 2025, the details of some of the projects are given, which paragraph is as follows:

“7.10 The Corporate Debtor herein apprised the Ld. NCLT that the rights of almost 300 allottees of the subject project namely Mahagun Manorialle will also be adversely affected in case the Company Petition is admitted and the same would cause hardship to other secured lender & Home Buyers of other projects (more than 8000 allottees and end users) who are eagerly waiting for possession of their dream Flats. Given below is a table of the ongoing projects being developed by the Corporate Debtor showcasing the number of allottees which shall be directly impacted by the aforementioned non-speaking and perverse Impugned Order passed in haste whilst violating the principles of natural justice.

Mahagun (India) Private Limited		
Name of Project	No. of Allottees	Project Status
Mahagun Manorialle	314	Super Structure Complete, Service & Finishing work going on

Mahagun Mywoods Phase 2	2559	Part of the project under final construction & Finishing registry/ final possession is pending
Mahagun Mywoods Phase 1	3596	Completed and handed over
Mahagun Montage	836	Group Housing Project, Under Construction
Mahagun Mascot Phase 1	1136	Completed and handed over
Mahagun Mascot Phase 2	254	Pending under legal dispute
Mahagun Metro Mall, Vaishali		Commercial Project Completed and operational since 2010. Facility Services look after by the company.
Mahagun Sarovar Portico Suites & Hotel Vaishali		Completed and Operational since 2012"

30. The sequence of the events as noted above makes it clear that although one week's time was allowed to the CD to file a reply, but reply could not be filed and only short reply was filed, which also was not on record. The Adjudicating Authority rejected the prayer of the CD for any further time, when the matter was next listed on 18.07.2025 and reserved orders. It is true that Adjudicating Authority having already granted time to the CD to file a reply and reply being not filed, the Adjudicating Authority could have proceeded to hear the matter.

31. The present is a case where the CD is a real-estate company and is engaged in various projects in the NCR, including Mahagun Manorialle project. The IDBI Trusteeship Services Ltd., who has filed Section 7 petition, which was filed on the basis of Debenture Trust Deed dated 10.12.2020 between the CD and IDBI Trusteeship Services Ltd. and the

Promoters of the CD. It is relevant to notice that copy of the Debenture Trust Deed is part of Section 7 petition. The project is defined under the definition, which is as follows:

““Project” means the project located in Sector-128, Noida, being developed by Issuer, as more particularly described under Schedule VIII (Description of Project).”

32. Schedule VIII gives description of the project. Schedule VIII of the Deed is as follows:

**“SCHEDULE VIII
DESCRIPTION OF PROJECT**

Project Mahagun Manorial: Residential Project in Sector 128, Noida; Total Saleable Area: 13,92,670 sq ft with 349 residential units; RERA Number: upreraprrj2051.”

33. The finance by IDBI Trusteeship Services Ltd. was thus only with regard to one project namely – Mahagun Manorial, residential project in Sector 128, Noida, as detailed in Schedule VIII, which project was charged in favour of the IDBI Trusteeship Services Ltd.

34. After admission order on 05.08.2025, the Hon’ble Supreme Court has delivered a judgment on 12.09.2025 in Civil Appeal No.3826 of 2020 in **Mansi Brar Fernandes vs. Shubha Sharma & Ors.**, in which case in paragraph 5.3 of the judgment, following observations have been made by the Hon’ble Supreme Court:

“5.3. The residential real estate sector plays a systemic role in the Indian economy. It is closely interlinked with banking, steel, cement, and allied industries, and is among the largest employment generators. Despite robust demand, the sector has been plagued by delays, defaults, and lack of accountability, leaving countless families without possession of homes despite having invested their life savings. In this backdrop, this Court has consistently reiterated that the IBC is not a recovery mechanism or

a bargaining chip for individual disputes. Rather, it is a collective mechanism intended to revive viable projects and safeguard the fundamental right to shelter of genuine homebuyers.”

35. The Hon’ble Supreme Court has further dealt the subject “Right to shelter as a fundamental right: constitutional obligation of the state to protect homebuyers” and after considering the several aspects of the project, conclusions were recorded. The Hon’ble Supreme Court emphasized that IBC is a remedial framework conceived for revival and the protection of sick companies. In paragraph 21, the Hon’ble Supreme Court held following:

“**21.** This Court reiterates that while investors are integral to any industry and their interests warrant protection, speculative participants driven purely by profit motives cannot be permitted to misuse the Insolvency and Bankruptcy Code, which is a remedial framework conceived for revival and the protection of sick companies and, in the case of real estate, genuine homebuyers. Such investors have alternative remedies under consumer law or RERA and even recourse to Civil Courts in appropriate cases. To admit speculative claims into insolvency proceedings would dilute the intelligible differentia underlying the legislative scheme, destabilize the residential real estate sector, and erode the social purpose embedded in housing as a fundamental right.”

36. Various directions were issued by the Hon’ble Supreme Court in paragraph 21.2 to advance the constitutional and statutory objectives. It is relevant to notice directions in paragraph 21.2(6), which are as follows:

“21.1(6) Resolution of real estate insolvency should, as a rule, proceed on a projectspecific basis rather than the entire corporate debtor, unless circumstances justify otherwise. This would protect solvent projects and genuine homebuyers from collateral prejudice. IBBI shall also devise

a mechanism to enable handover of possession to willing allottees where substantial units in a project are complete.”

37. The above directions clearly held that resolution of real-estate insolvency should, as a rule, proceed on project-specific basis rather than the entire corporate debtor, unless circumstances justify otherwise. The above judgment, which was delivered on 12.09.2025 is thus binding on all and needs to be followed in ‘letter and spirit’.

38. Learned Counsel for the Appellant has also relied on judgment of the Hon’ble Supreme Court in ***Indiabulls Asset Reconstruction Co. Ltd. v. Ram Kishore Arora & Ors. – (2023) SCC OnLine SC 612*** where the Hon’ble Supreme Court while hearing the appeal against an order of this Tribunal directed for project-wise insolvency and has made similar observations. The Hon’ble Supreme Court in paragraph 20 of the judgment laid down following:

“**20.** As noticed, the present appeals (Civil Appeal No. 5941 of 2022 and Civil Appeal No. 1925 of 2023) are directed against an interim order of the Appellate Tribunal. However, the said interim order, *prima facie*, gives rise to several questions worth consideration, including the fundamental one as to the tenability of the proposition of “project-wise resolution” as adopted by the Appellate Tribunal. The question, at present, is as to what should be the interim relief/interim arrangement until disposal of these appeals. In regard to this question, we may take note of the relevant principles in relation to the matter concerning grant of interim relief which have been reemphasized by this Court in the case of *Union of India v. Raj Grow Impex LLP* : 2021 SCC OnLine SC 429 as follows:—

“**194.** In addition to the general principles for exercise of discretion, as discussed hereinbefore, a few features specific

to the matters of interim relief need special mention. It is rather elementary that in the matters of grant of interim relief, satisfaction of the Court only about existence of *prima facie* case in favour of the suitor is not enough. The other elements i.e., balance of convenience and likelihood of irreparable injury, are not of empty formality and carry their own relevance; and while exercising its discretion in the matter of interim relief and adopting a particular course, the Court needs to weigh the risk of injustice, if ultimately the decision of main matter runs counter to the course being adopted at the time of granting or refusing the interim relief. We may usefully refer to the relevant principle stated in the decision of Chancery Division in *Films Rover International Ltd. v. Cannon Film Sales Ltd.* : (1986) 3 All ER 772 as under:—

“....The principal dilemma about the grant of interlocutory injunctions, whether prohibitory or mandatory, is that there is by definition a risk that the court may make the “wrong” decision, in the sense of granting an injunction to a party who fails to establish his right at the trial (or would fail if there was a trial) or alternatively, in failing to grant an injunction to a party who succeeds (or would succeed) at trial. **A fundamental principle is therefore that the court should take whichever course appears to carry the lower risk of injustice if it should turn out to have been “wrong”** in the sense I have described. The guidelines for the grant of both kinds of interlocutory injunctions are derived from this principle.”

(emphasis in bold supplied)

195. While referring to various expositions in the said decision, this Court, in the case of *Dorab Cawasji Warden v. Coomi Sorab Warden* : (1990) 2 SCC 117 observed as under:—

“16. The relief of interlocutory mandatory injunctions are thus granted generally to preserve or restore the status quo of the last non-contested status which preceded the pending controversy until the final hearing when full relief may be granted or to compel the undoing of those acts that have been illegally done or the restoration of that which was wrongfully taken from the party complaining. **But since the granting of such an injunction to a party who fails or would fail to establish his right at the trial may cause great injustice or irreparable harm to the party against whom it was granted or alternatively not granting of it to a party who succeeds or would succeed may equally cause great injustice or irreparable harm, courts have evolved certain guidelines.** Generally stated these guidelines are:

(1) The plaintiff has a strong case for trial. That is, it shall be of a higher standard than a prima facie case that is normally required for a prohibitory injunction.

(2) It is necessary to prevent irreparable or serious injury which normally cannot be compensated in terms of money.

(3) The balance of convenience is in favour of the one seeking such relief.

17. Being essentially an equitable relief the grant or refusal of an interlocutory mandatory injunction shall ultimately rest in the sound judicial discretion of the court to be exercised in the light of the facts and circumstances in each case. Though the above guidelines are neither exhaustive nor complete or absolute rules, and there may be exceptional circumstances needing action, applying them as prerequisite for the grant or refusal of such injunctions would be a sound exercise of a judicial discretion.”

(emphasis in bold supplied)

196. In keeping with the principles aforesaid, one of the simple questions to be adverted to at the threshold stage in the present cases was, as to whether the importers (writ petitioners) were likely to suffer irreparable injury in case the interim relief was denied and they were to ultimately succeed in the writ petitions. A direct answer to this question would have made it clear that their injury, if at all, would have been of some amount of loss of profit, which could always be measured in monetary terms and, usually, cannot be regarded as an irreparable one. Another simple but pertinent question would have been concerning the element of balance of convenience; and a simple answer to the same would have further shown that the inconvenience which the importers were going to suffer because of the notifications in question was far lesser than the inconvenience which the appellants were going to suffer (with ultimate impact on national interest) in case operation of the notifications was stayed and thereby, the markets of India were allowed to be flooded with excessive quantity of the said imported peas/pulses.””

39. It is relevant to notice the fact that the CD has other projects apart from project for which IDBI Trusteeship Services Ltd. has financed, i.e. Mahagun Manorialle, which has been mentioned in written submissions submitted by the CD before the Adjudicating Authority. We have also

noticed the different IAs, where different homebuyer have made different prayers. Some prayed for CIRP to be confined to only Mahagun Manorialle project; some prayed for setting aside the admission order; and some prayed for continuance of the CIRP. It is pleaded by the Appellant that there are 11,000 homebuyers in different projects and some of the projects have already completed and possession have been given. We are of the view that in view of the law laid down by the Hon'ble Supreme Court in **Mansi Brar Fernandes** and **Indiabulls Asset Reconstruction Co. Ltd.**, the Adjudicating Authority has to consider the issue as to whether the CIRP be confined to project for which Financial Creditor has advanced finance, or CIRP to continue encompassing all the projects of the CD. We have also noticed that although the time was allowed to the CD to file reply, but no detailed reply could be filed and prayer made on 18.07.2025, which was the next date fixed after granting one week's time on 13.06.2005, the prayer was rejected and Adjudicating Authority proceeded to reserve the order. The Appellant although ought to have availed the opportunity given by the Adjudicating Authority, but fact remains that all relevant facts with regard to CIRP could not be placed by the Appellant, including the status and details of other projects.

40. We have noticed the law laid down by the Hon'ble Supreme Court in **Mansi Brar Fernandes vs. Shubha Sharma** (supra). The Hon'ble Supreme Court in the above case adverted to the various aspects of the real-estate projects and have issued various directions, which we have noticed above. One of the directions noticed above as contained in

paragraph 21.2(6) is that resolution of real estate insolvency should, as a rule, proceed on a projectspecific basis rather than the entire corporate debtor, unless circumstances justify otherwise. Although the said directions have been issued on 12.09.2025, i.e. subsequent to judgment delivered by Adjudicating Authority on 05.08.2025, but various facts pertaining to different projects of the CD having been brought on the record in these Appeal(s), the said facts cannot be ignored and the fact that the CD is carrying on various projects apart from Mahagun Manorialle, is on the record and need to be taken note of.

41. We by our order dated 02.09.2025, permitted the Appellant to file Status Report with record of all projects, which are with the CD. In paragraph-4 of the order dated 02.09.2025, we observed as follows:

“4. Appellant is also permitted to file a status report with respect to all project which are with the Corporate Debtor giving the present status and all the relevant facts including the lending.”

42. In pursuance of the above order dated 02.09.2025, Status Report dated 04.10.2025 has been filed by the Appellant, which Status Report is being part of Annexure P/2 to the additional affidavit of the Appellant dated 04.10.2025. At page-12 of the affidavit under the heading “Status of the Projects of the Corporate Debtor”, following has been stated:

“STATUS OF THE PROJECTS OF THE CORPORATE DEBTOR

Given below is the list of Projects already completed by the Corporate Debtor

Area & Projects Delivered: 11.48 million sq ft area already delivered comprising of 9175 units of residential units and shopping mall, cineplex and hotels.

Projects Name Delivered & Completion year-

Group Housing Societies developed by Corporate Debtor

- Mahagun Villa, Vaishali-2004-05
- Mahagun Manor, Noida 2005-06
- Mahagun Morpheus, Noida 2007-08
- Mahagun Maestro, Noida 2007-08
- Mahagun Mosaic, Vaishali -2009-10
- Mahagun Mansions, Indirapuram 2006-07
- Mahagun Maple, Noida-2011-12
- Mahagun Mascot, Crossing Republic-2012-13
- Mahagun Mywoods, Greater Noida West-2016-17 Phase 1, 2019-2021-22 Phase II, 2025-26 Phase III (Final 2 Towers to be handed over)

Malls & Hotels developed by Corporate Debtor

- Mahagun Metro Mall, Vaishali-2010-11
- Hotel, Mahagun Sarover Portico, Vaishali-2011-12

Given below is the list of Projects under construction by the Corporate Debtor

Area & Project Under Construction: 2.92 Million sq.ft. under construction.

Projecta under construction:-

Group Housing Societies

- Mahagun Manorialle, Noida
- Mahagun Montagne, Noida
- Mahagun Myrra Green, Jhansi (Plotted Development which has already been sold by the Corporate Debtor, however registration of Sale Deed is pending and halted due to initiation of CIRP against the Corporate Debtor)."

43. The affidavit further contains details of different projects with the present status.

44. The fact that the CD is carrying out various other projects apart from Mahagun Manorialle, which project was hypothecated to IDBI Trusteeship Services Ltd. is a fact, which is on the record. In the written submissions, which has been filed by the Appellant in pursuance of the

order of Adjudicating Authority dated 18.07.2025, the details of various other projects have been mentioned, which have been noticed above. In any case, Aditya Birla Capital Ltd. has filed an IA No.53 of 2025 before the Adjudicating Authority, where it prayed for intervention stating that it has advanced finance to the CD for four other projects, which projects are operational and no default has been committed by the CD. Thus, the fact that CD is constructing more than one project is on the record.

45. In any view of the matter, in view of the law laid down by the Hon'ble Supreme Court in **Mansi Brar Fernandes**, which require resolution of real-estate insolvency should, as a result, proceed on a project-specific basis and all relevant material with regard to other project and its status as well as different intervention applications filed by homebuyers of different projects have been brought on record, we are of the view that Adjudicating Authority is required to advert to these facts and law laid down by the Hon'ble Supreme Court in **Mansi Brar Fernandes** and has to advert to the question as to whether the CIRP should be confined to the current project or encompass all the projects.

46. We have also noticed above that IAs filed by different sets of homebuyers with respect to other projects of the CD, have made different prayers. In some of the IAs, the Applicant prayed that admission order be set aside, whereas in some IAs they prayed that CIRP be continued. One set of group prayed that CIRP be confined to only project Mahagun Manorialle.

47. In view of the above, we are of the view that Adjudicating Authority needs to consider Section 7 petition afresh, taking into consideration the directions issued by the Hon'ble Supreme Court in **Mansi Brar Fernandes** (supra) as well as Status Report, which has been brought on the record. We permit the Appellant to place copy of the Status Report filed in this Appeal along with additional affidavit with its reply before the Adjudicating Authority. In facts of the present case, where the CD could not file detailed reply and prayer to grant time to file a detailed reply on 18.07.2025 was rejected, we are of the view that ends of justice will be served in granting one week's time from today to the CD to file reply to Section 7 petition. The Respondent (herein) may also file rejoinder, if any, within one week. Both the parties are at liberty to place this order before the Adjudicating Authority for fixing a date of hearing on Section 7 petition after two weeks. Thereafter, in event the Adjudicating Authority decides to admit Section 7 petition, the question as to whether the CIRP should proceed against one project, i.e., Mahagun Manorialle, for which finance was provided by the Financial Creditor, or should encompass all other projects also need to be considered and appropriate decision be taken. We also grant liberty to Aditya Birla Capital Ltd., who had filed application for intervention, which was rejected, to file fresh application for intervention, giving all relevant facts, which need to be considered.

48. With regard to other homebuyers, who have filed different applications as noted above, we also grant liberty to them to file application before the Adjudicating Authority. We make it clear that

insofar as intervention applications filed by different homebuyers with regard to which liberty is being granted, it is for Adjudicating Authority to take a decision as to whether permit the intervention or reject the same and we are not expressing any opinion on merits of such intervention and it is the discretion of the Adjudicating Authority to take decision on such intervention applications. The above liberty of filing application is granted looking to the fact that the CD is a real-estate company, which is carrying out several projects and homebuyers are spread from one project to other projects. We further clarify that we are not expressing any opinion on merits of Section 7 petition or the defence to be taken by the CD. The Adjudicating Authority shall proceed to decide Section 7 petition afresh.

49. In result, Company Appeal (AT) (Ins.) No.1186 of 2025 is allowed with following directions:

- (1) Order dated 05.08.2025 is set aside and petition IB-112(ND)/2025 revived before the Adjudicating Authority for fresh consideration.
- (2) The CD is allowed one week's time to file a detailed reply to Section 7 petition with Status Report filed before us as noted above. The Respondents (herein) may file rejoinder, if any, within one week. Both the parties are given liberty to place this order before the Adjudicating Authority and request for fixing a date in Section 7 petition, after two weeks, for hearing and consideration. No further opportunity be granted to the CD to file reply.

- (3) In view of the order passed in Company Appeal (AT) (Ins.) No.1186 of 2025, no orders are required in other Appeal(s), i.e. Company Appeal (AT) (Ins.) Nos.1254, 1258 & 1314 of 2025. The above Appeal(s) are disposed of accordingly.
- (4) We grant liberty to Aditya Birla Capital Ltd. to file fresh intervention application in Section 7 petition, which needs to be considered and decided by the Adjudicating Authority in accordance with law.
- (5) We also grant liberty to other Applicants/ homebuyers, who have filed IAs in these Appeal(s) to file intervention application before the Adjudicating Authority, which may also be considered by the Adjudicating Authority in accordance with law. We clarify that we have not expressed any opinion on merits of Section 7 petition and the intervention applications and it is for the Adjudicating Authority to consider and decide.

Parties shall bear their own costs.

[Justice Ashok Bhushan]
Chairperson

[Barun Mitra]
Member (Technical)

NEW DELHI

6th November, 2025

Ashwani