



IN THE NATIONAL COMPANY LAW TRIBUNAL

PRINCIPAL BENCH, NEW DELHI

Company Petition No.: IB 300(PB)/2020

IA-2690/2023,

IA-3503/2023,

IA-3505/2023,

IA-3506/2023,

IA-3507/2023.

IN THE MATTER OF:

M/s ASSET CARE AND RECONSTRUCTION ENTERPRISES LIMITED
...Financial Creditor

VERSUS

M/s SARE GURUGRAM PRIVATE LIMITED
... Corporate Debtor

AND

1. IN THE MATTER OF IA 2690/2023:

Under Section 60 (5) r/w Section 31 of IBC, 2016, objecting the Resolution Plan

Mr. MAHENDRA SINGH BHATI **...Applicant**

2. IN THE MATTER OF IA 3503/2023:

Under Section 60 (5) r/w Section 31 of IBC, 2016, objecting the Resolution Plan

Mr. ABHISHEK SINGHAL **...Applicant**

VERSUS



Mr. AJIT JAIN

Resolution Professional of Sare Gurugram Private Limited

...Respondent No. 1

MONITORING AGENCY OF SGPL

...Respondent No. 2

3. IN THE MATTER OF IA 3505/2023:

Under Section 60 (5) r/w Section 31 of IBC, 2016, objecting the Resolution Plan

MS. SHAILJA GOYAL

...Applicant

VERSUS

Mr. AJIT JAIN

Resolution Professional of Sare Gurugram Private Limited

...Respondent No. 1

MONITORING AGENCY OF SGPL

...Respondent No. 2

4. IN THE MATTER OF IA 3506/2023:

Under Section 60 (5) r/w Section 31 of IBC, 2016, objecting the Resolution Plan

MR. ABHISHEK SINGHAL

...Applicant

VERSUS

Mr. AJIT JAIN

Resolution Professional of Sare Gurugram Private Limited

...Respondent No. 1

MONITORING AGENCY OF SGPL

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...Respondent No. 2

5. IN THE MATTER OF IA 3507/2023:

Under Section 60 (5) r/w Section 31 of IBC, 2016, objecting the Resolution Plan

MS. SHAILJA GOYAL

...Applicant

VERSUS

Mr. AJIT JAIN

Resolution Professional of Sare Gurugram Private Limited

...Respondent No. 1

MONITORING AGENCY OF SGPL

...Respondent No. 2

Pronounced on: 21.08.2023

CORAM:

SHRI RAMALINGAM SUDHAKAR, HON'BLE PRESIDENT

SHRI AVINASH K SRIVASTAVA, HON'BLE MEMBER (TECHNICAL)

Present:

- For the Applicant : Mr. Kartikay Yadav & Mr. Tavish B. Prasad, Advocates
Adv. Amresh Anand in IA No. 3503/2023, 3505/2023, 3506/2023 and 3507/2023
Adv. Geetansh Nagpal
- For Monitoring Committee : Dr. Pankaj Garg, Sr. Adv. Ms. Nitika, Advocates.
Adv. Siddhant Kumar
- For the SRA : Ms. Wamika Trehan, Advocate

ORDER

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1. These Applications have been filed by the home-buyers / allottees of the housing project of the Corporate Debtor namely M/s Sare Gurugram Private Limited seeking the following reliefs:

(i) IA-2690/2023:

This is an application filed by the Applicant Mr. Mahendra Singh Bhati claiming to be an allottee in the project 'Sports Parc' of the Corporate Debtor. The prayer in this application is as follows:

"1. To order the Resolution Professional to accept the claim of the applicant herein to the tune of Rs. 15,95,268/- and in addition an amount of Rs. 5,65,061.41/- paid by the applicant on account of pre- EMIs to the financing company.

2. To order the Resolution Professional to pay the amount of loan on behalf of the corporate debtor disbursed by the Financing Company to the tune of Rs. 14,60,116/- and further pay the monthly Pre-EMIs or EMIs on behalf of the corporate debtor till the re-payment of the loan.

3. To order the financing company i.e., M/s India bulls Finance Limited to not to charge the amount of pre- EMIs from the applicant as the applicant is not a defaulter in that part.

4. Pass any other order which this Hon'ble Bench may deem fit in the interest of justice."

(ii) IA-3503/2023:

This is an application filed by the Applicant Mr. Abhishek Singhal claiming to be an allottee in the project 'Sports Parc' of the Corporate Debtor. The prayer in this application is as follows:

"i. Pass a direction to condone the delay in submitting the claim form CA by Applicant;

ii. Pass appropriate directions to Respondent No. 1 and 2 to accept and scrutinize the claim of applicant submitted in form CA;

iii. Direct the Respondent No. 1 and 2 to accept the claim of the Applicant as Financial Creditor of a total amount of



59,55,454/- (Rupees Fifty-Nine Lakhs Fifty-Five Thousand Four Hundred Fifty-Four Only) along with Interest and include the name of the Applicant in the list of Allottees and financial Creditors;

iv. Pass a direction to Resolution Professional/Monitoring agency of SGPL to handover the peaceful possession of the flat booked by the Applicant;

v. Any other order or relief as this Hon'ble Bench may deem fit and proper.”

(iii) IA-3505/2023:

This is an application filed by the Applicant Ms. Shailja Goyal claiming to be an allottee in the project 'Crescent Parc' of the Corporate Debtor. The prayer in this application is as follows:

“i. Pass a direction to condone the delay in submitting the claim form CA by Applicant;

ii. Pass appropriate directions to Respondent No. 1 and 2 to accept and scrutinize the claim of applicant submitted in form CA;

iii. Direct the Respondent No. 1 and 2 to accept the claim of the Applicant as Financial Creditor of a total amount of 51,95,688/- (Rupees Fifty-One Lakhs Ninety-Four Lakhs Six Hundred Eighty-Eight Only) along with Interest and include the name of the Applicant in the list of Allottees and financial Creditors;

iv) Pass a direction to Resolution Professional/Monitoring agency of SGPL to handover the peaceful possession of the flat booked by the Applicant;

v) Any other order or relief as this Hon'ble Bench may deem fit and proper.”

(iv) IA-3506/2023:

This is an application filed by the Applicant Mr. Abhishek Singhal claiming to be an allottee in the project 'Crescent Parc' of the Corporate Debtor. The prayer in this application is as follows:



“i). Pass a direction to condone the delay in submitting the claim form CA by Applicant;

ii). Pass appropriate directions to Respondent No. 1 and 2 to accept and scrutinize the claim of applicant submitted in form CA;

iii. Direct the Respondent No.1 and 2 to accept the claim of the Applicant as Financial Creditor of a total amount of 59,55,454/- (Rupees Fifty-Nine Lakhs Fifty-Five Thousand Four Hundred Fifty-Four Only) along with Interest and include the name of the Applicant in the list of Allottees and financial Creditors;

iv). Pass a direction to Resolution Professional/Monitoring agency of SGPL to handover the peaceful possession of the flat booked by the Applicant;

v. Any other order or relief as this Hon'ble Bench may deem fit and proper.”

(v) IA-3507/2023:

This is an application filed by the Applicant Ms. Shailja Goyal. claiming to be an allottee in the project ‘Green Parc’ of the Corporate Debtor The prayer in this application is as follows:

“i. Pass a direction to condone the delay in submitting the claim form CA by Applicant;

ii. Pass appropriate directions to Respondent No. 1 and 2 to accept and scrutinize the claim of applicant submitted in form CA;

iii. Direct the Respondent No. 1 and 2 to accept the claim of the Applicant as Financial Creditor of a total amount of 96,86,399/- (Rupees Ninety-Six Lakhs Eighty-Six Thousand Three Hundred Ninety-Nine Only) along with Interest and include the name of the Applicant in the list of Allottees and financial Creditors;

iv. Pass a direction to Resolution Professional/Monitoring agency of SGPL to handover the peaceful possession of the flat booked by the Applicant;

v. Any other order or relief as this Hon'ble Bench may deem fit and proper”



2. It is pertinent to mention that the Resolution Professional made a public announcement on 12.03.2021 and the last date of submission of claims was 24.03.2021.
3. On hearing the arguments of the Ld. Counsels for the parties and on perusal of the documents of record we find that the delay in filing the claim by the applicants is beyond reasonable time-lines, which can be seen from the table below:

Sr. No.	IA No.	Name of Home Buyer	Claim filed on	Delay (in days)
1.	2690/2023	Mr. Mahendra Singh Bhati	Claim not filed with the RP	-
2.	3503/2023	Mr. Abhishek Singhal	03.06.2023	801 days
3.	3505/2023	Ms. Shailja Goyal	04.06.2023	802 days
4.	3506/2023	Mr. Abhishek Singhal	03.06.2023	801 days
5.	3507/2023	Ms. Shailja Goyal	04.06.2023	802 days

4. We are aware of the Judgment passed by Hon'ble NCLAT in the matter of "Puneet Kaur v/s K V Developers". The benefit of the same has been granted by this Adjudicating Authority to all those allottees whose claims were rejected by the RP on the ground that it has been filed belatedly and further applications against the rejection had been listed for hearing before this Adjudicating Authority up to 12.12.2022. However, the delayed claims of home-buyers cannot be considered endlessly as this is beyond the reasonable time-lines. If such claims are allowed, then this Adjudicating Authority will continue to receive further such applications and the case will never reach resolution. Further, it will also cause a hurdle to the Successful Resolution Applicant in executing the Resolution Plan.



5. While the principles of natural justice and fairness are of paramount importance, in insolvency proceedings, it is equally crucial to uphold the principle of finality and closure in such proceedings. Allowing delayed claims to be considered indefinitely goes beyond reasonable time-lines and undermines the efficacy and purpose of the insolvency resolution process.
6. It is pertinent to mention that the Resolution Plan of the Corporate Debtor has already been approved by this Adjudicating Authority vide its order dated 24.04.2023. At this juncture, such applications cannot be entertained by this Adjudicating Authority as it would squarely violate the 'Clean-Slate Principle' as laid down by the Hon'ble Supreme Court in the case of **Ghanashyam Mishra & Sons versus Edelweiss Asset Reconstruction Company Limited Through The Director & Ors** Civil Appeal No. 1554 of 2021, the relevant paragraph is as extracted below.

“86.After CoC approves the plan, the Adjudicating Authority is required to arrive at a subjective satisfaction, that the plan conforms to the requirements as are provided in sub-section (2) of Section 30 of the I&B Code. Only thereafter, the Adjudicating Authority can grant its approval to the plan. It is at this stage, that the plan becomes binding on Corporate Debtor, its employees, members, creditors, guarantors and other stakeholders involved in the Resolution Plan. The legislative intent behind this is, to freeze all the claims so that the resolution applicant starts on a clean slate and is not flung with any surprise claims. If that is permitted, the very calculations on the basis of which the resolution applicant submits its plans, would go haywire and the plan would be unworkable.”

7. In light of the aforementioned reasons and the judgment of Hon'ble Apex Court, this Adjudicating Authority is of the opinion that these applications which have been filed seeking condonation of an inordinate delay of around 800 days and for accepting their claims cannot be



allowed, and are liable to be dismissed.

8. Accordingly, IA-2690(PB)/2023, IA-3503(PB)/2023, IA-3505(PB)/2023, IA-3506(PB)/2023, IA-3507(PB)/2023 stand dismissed.

Sd/-
RAMALINGAM SUDHAKAR
PRESIDENT

Sd/-
AVINASH K. SRIVASTAVA
MEMBER (TECHNICAL)