

**IN THE NATIONAL COMPANY LAW TRIBUNAL
KOLKATA BENCH-I
KOLKATA**

**I.A. (IB) No. 46/KB/2022
in
C.P. (IB) No. 259/KB/2021**

**An application under rule 154 and 155 read with rule 11 of the
National Company Law Tribunal Rules, 2016.**

In the matter of:
Way Estates Limited
[CIN:U01403BR2010PLC016413]

... Corporate Applicant

Order reserved on: 03 March, 2022

Order pronounced on: 20 April, 2022

Coram:

Shri Rajasekhar V.K.	:	Member (Judicial)
Shri Balraj Joshi	:	Member (Technical)

Appearances (through video conferencing):

For the Applicant : Ms. Manju Bhuteria, Advocate
Mr. Raul Parasrampur, PCS

ORDER

Rajasekhar V.K., Member (Judicial)

1. This Court convened through video conferencing.
2. The present I.A. has been filed by Ways Estates Limited, represented by it's Director. Mr. Abhay Raj seeking the following reliefs:
 - a. To rectify/modify the order dated 26.10.2021 passed in C.P.(IB) 259/KB/2021;*
 - b. To order the publication of notice in the newspaper and simultaneously private service of notice and petition may be dispensed with.*

3. Way Estates Limited (“Corporate Applicant”) was incorporated on 31 December 2010 and is engaged in the business of real estate, development of agricultural land and had made arrangements for purchasing/procuring the lands with clear and marketable title with possession to its customers.
4. The Corporate Applicant filed a petition for initiation of Corporate Insolvency Resolution Process (“CIRP”) on 02 September 2021 registered as C.P.(IB) No. 259/KB/2021.
5. Learned Counsel appearing for the Corporate Applicant has 3922 customer base, out of which 1005 customers had made full payments for purchasing land and 2917 customers defaulted in making payments.
6. This Adjudicating Authority *vide* order dated 26 October 2021 and directed the Corporate Applicant to said customers who have paid full consideration in respect of the plots allotted.
7. The learned Counsel for the Corporate Applicant submitted that the cost of serving of notice along with the petition would amount to Rs.7,03,500/- approximately and the Corporate Applicant has Rs.121/- and Rs.57,896.73 in cash and banks respectively.
8. It was further submitted that the Corporate Applicant is not in a position to bear the expenses. Hence, the Applicant prays for modification of the order dated 26th October 2021 and allow the Applicant to serve the notice through paper publication.
9. The Applicant has proposed the publications in the following newspapers:
 - a. Times of India (English) (Bihar and Madhya Pradesh editions)
 - b. Dainik Bhaskar/AJ (Hindi)(Bihar edition)
 - c. Nabh Bharat (Hindi)(Madhya Pradesh edition)
10. The learned Counsel submitted that in the order dated 26 October 2021, the number of shareholders have been stated wrongly. The extract of the order is given below:

“However, there are five shareholders of the Corporate Debtor out of that more than 85% of the people have approved the resolution for CIRP process.”

There are seven shareholders of the Corporate Applicant, the Corporate Applicant prays for rectification of the same.

11. Heard the learned Counsel for the Corporate Applicant and perused to the records of the main Company Petition.

12. The Articles of Association do reflect that the Corporate Debtor has seven shareholders. Therefore, the portion of the order dated 26.10.2021:

“However, there are five shareholders of the Corporate Debtor out of that more than 85% of the people have approved the resolution for CIRP process.”

shall be substituted with

“However, there are seven shareholders of the Corporate Debtor out of that more than 85% of the people have approved the resolution for CIRP process.”

13. On perusal of the records, we noticed that the creditors are not only from Madhya Pradesh and Bihar but there are customers from West Bengal as well. The Corporate Applicant is directed to publish the notice in the following newspapers mentioning the next date of hearing i.e. 17 May 2022:

- a. Times of India (English) (Bihar, Madhya Pradesh and West Bengal editions)
- b. Dainik Bhaskar/AJ (Hindi)(Bihar edition)
- c. Nabh Bharat (Hindi)(Madhya Pradesh edition)
- d. Aajkal (Bengali)(West Bengal Edition)
- e. Anandabazar Patrika (Bengali) West Bengal edition)
- f. Dainik Jagran (Hindi) (West Bengal edition)

14. The Corporate Applicant shall file an affidavit of service within two weeks from the date of this order.

IN THE NATIONAL COMPANY LAW TRIBUNAL
KOLKATA BENCH-I

Way Estates Ltd.
I.A. (IB) No. 46/KB/2022 in C.P. (IB) No. 259/KB/2021

15. I.A. (IB) No. 46/KB/2022 is hereby disposed of with the above directions. List the main Company Petition on 17 May 2022.

16. The Registry is directed to send e-mail copies of the order forthwith to all the parties and their learned Counsel and Authorised Representative for information and for taking necessary steps.

17. Certified copy of this order may be issued, if applied for, upon compliance with all requisite formalities.

BALRAJ J JOSHI
Digitally signed
by BALRAJ JOSHI
Date: 2022.04.20
18:57:58 +05'30'
Balraj Joshi
Member (Technical)

Rajasekhar V K
Digitally signed by
Rajasekhar V K
Date: 2022.04.20
17:33:35 +05'30'
Rajasekhar V.K.
Member (Judicial)

20 April, 2022

GGRB [LRA]