IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE THE CHIEF JUSTICE MR. NITIN JAMDAR

&

THE HONOURABLE MR. JUSTICE S.MANU

Friday, the 11th day of April 2025 / 21st Chaithra, 1947

WA NO. 755 OF 2025

AGAINST THE JUDGMENT DATED 25.03.2024 IN WP(C) 14289/2016 OF THIS COURT

APPELLANT(S)/RESPONDENT NO.6 TO 20:

1. **UNION BANK OF INDIA, REPRESENTED BY ITS CHAIRMAN/MANAGING DIRECTOR UNION BANK BHAVAN, 239, VIDHAN BHAVAN MARG, NARIMAN POINT, MUMBAI, MAHARASHTRA, PIN - 400021**
2. **ANDHRA BANK, REPRESENTED BY ITS CHAIRMAN/MANAGING DIRECTOR DR. PATTABHI BHAVAN, 5/9/11, SAIFABAD, HYDERABAD, PIN - 500004**
3. **ORIENTAL BANK OF COMMERCE, REPRESENTED BY ITS CHAIRMAN/MANAGING DIRECTOR PLOT NO.5, INSTITUTIONAL AREA, SECTOR-32, GURGAON, PIN - 122001**
4. **INDIAN OVERSEAS BANK, REPRESENTED BY ITS CHAIRMAN/MANAGING DIRECTOR 763, ANNA SALAI, CHENNAI, PIN - 600002**
5. **CORPORATION BANK, REPRESENTED BY ITS CHAIRMAN/MANAGING DIRECTOR HEAD OFFICE, PANDESHWAR, MANGALORE, PIN - 575001**
6. **PUNJAB NATIONAL BANK, REPRESENTED BY ITS CHAIRMAN/MANAGING DIRECTOR 7, PNB HOUSE, BHIKAJI CAMA PALACE, BEHIND EIL DELHI, PIN - 110066**
7. **ALLAHABAD BANK, REPRESENTED BY ITS CHAIRMAN/MANAGING DIRECTOR ALLAHABAD BANK HEAD OFFICE, 2, N.S ROAD, KOLKATA, PIN - 700001**
8. **DENA CORPORATE CENTRE, REPRESENTED BY ITS CHAIRMAN/MANAGING DIRECTOR C-10, G BLOCK, BANDRA-KURLA COMPLEX, BANDRA (E), MUMBAI, PIN - 400051**
9. **SMALL INDUSTRIES DEVELOPMENT BANK OF INDIA, REPRESENTED BY ITS CHAIRMAN/MANAGING DIRECTOR SIDBI, MSME DEVELOPMENT CNETRE, PLOT NO.C-11, G BLOCK, BANDRA KURLA COMPLEX, BANDRA (E), MUMBAI, PIN - 400051**
10. **M/S. EDELVEISS ASSET RECONSTRUCTION COMPANY LTD., REPRESENTED BY ITS AUTHORISED/CHAIRMAN (EARC), EDELWEISS HOSE, OFF CST ROAD, KALIAN MUMBAI, PIN - 400098**
11. **ASSET RECONSTRUCTION COMPANY LTD ARCL, REPRESENTED BY ITS AUTHORISED SIGNATORY/CHAIRMAN THE RUBY, 10TH FLOOR, 29, SENAPATI BAPAL MARG, DADAR (WEST), MUMBAI , PIN - 400032**
12. **THE FEDERAL BANK LTD., REPRESENTED BY ITS CHAIRMAN/MANAGING DIRECTOR CORPORATE OFFICE, ALUVA, KERALA, PIN - 683101**
13. **VIJAYA BANK, REPRESENTED BY ITS CHAIRMAN/MANAGING DIRECTOR KAMADHENU COMPLEX, OPP.AMBAWADI, AHMEDABAD, PIN - 380015**
14. **INDIAN BANK CORPORATE OFFICE, REPRESENTED BY ITS CHAIRMAN/MANAGING DIRECTOR P.B NO.5555, 254-260, AVVAI SHANMUGHAM SALAI, ROYAPETTAH, CHENNAI, PIN - 600014**
15. **CENTRAL BANK OF INDIA, REPRESENTED BY ITS CHAIRMAN/MANAGING DIRECTOR CHANDER MUKHI, NARIMAN POINT, MUMBAI, PIN - 400021**

BY ADVS.M/S. C.MURALIKRISHNAN (PAYYANUR) & MATHEW ANGELO DAVIS

RESPONDENT(S)PETITIONERS AND RESPONDENTS NO.1 TO 5 AND 21 TO 24:

1. **THE DEWA INVESTORS ASSOCIATES, REPRESENTED BY ITS PRESIDENT, PRINCE JOSEPH 28/475, KOONAMTHAI, EDAPPALLY P.O, ERNAKULAM, PIN-682024, RESIDING AT 17D, EXPRESS ESTATE, KALOOR P.O., ERNAKULAM, PIN - 682017**
2. **JACOB XAVIER, SECRETARY, THE DEWA INVESTORS ASSOCIATION 28/475, KOONAMTHAI, EDAPPALLY P.O, ERNAKULAM, PIN-682024, RESIDING AT KAYYALAKAKATH, PALA P.O, KOTTAYAM , PIN - 686575**
3. **M/S. DEWA PROJECTS PRIVATE LIMITED, REGISTERED OFFICE AT S.S KOVIL ROAD, THAMPANOOR P.O, VANCHIYOOR, THIRUVANANTHAPURAM, PIN - 695001**
4. **HOTEL VENUS INTERNATIONAL S.S KOVIL ROAD, THAMPANOOR P.O, VANCHIYOOR, THIRUVANANTHAPURAM, PIN - 695001**
5. **K.VENUGOPALAN NAIR, TC 6/139, CHAITHRAN, VATTIYOORKAVU P.O, THIRUVANANTHAPURAM, PIN - 695009**
6. **M/S. ANSU ENTERPRISES SREE NAGAR, NO.14 XLI/1620, MANACAUD P.O, THIRUVANANTHAPURAM, PIN - 695009**
7. **M/S. ANSU ENTERPRISES PRIVATE LIMITED B-60-63, PIPDC INDUSTRIAL ESTATE, METTUPPALAYAM, PUDUCHERRY, PONDICHERRY, PIN - 605009**
8. **THE REGIONAL DIRECTOR, RESERVE BANK OF INDIA, BAKERY JUNCTION, THIRUVANANTHAPURAM, PIN - 695001**
9. **THE GENERAL MANAGER, RESERVE BANK OF INDIA, DEPARTMENT OF BANKING SUPERVISION, BAKERY JUNCTION, THIRUVANANTHAPURAM , PIN - 695033**
10. **CENTRAL VIGILANCE COMMISSION, SATARKATA BHAVAN, A-BLOCK, GPO COMPLEX, INA, NEW DELHI, PIN - 110023**
11. **CENTRAL BUREAU OF INVESTIGATION, REPRESENTED BY ITS SUPERINTENDENT OF POLICE KATHRIKKADAVU, KOCHI, PIN - 682017**

BY SENIOR ADVOCATE SRI.JOSEPH KODIANTHARA AND ADV.SRI.VIJAY V PAUL FOR R1 & R2

SENIOR ADVOCATE SRI.RAMESH CHANDER AND ADV.SRI.SHIYAS K.R FOR R3,

ADV.SRI.A.B.MOHANAKUMAR FOR R4 TO R7

Prayer for interim relief in the Writ Appeal stating that in the circumstances stated in the appeal memorandum, the High Court be pleased to stay the operation of judgement dated 25.03.2024 in W.P(C) No.14289/2016 to the extent of it directs the appellants, the consortium of banks to immediately release ₹24,75,67,192/- to the designated account of the liquidator, as stated in Paragraph No. 36 (ii) of the impugned judgement pending disposal of the above Writ Appeal.

This Writ appeal coming on for orders along with connected cases on 11.04.2025, upon perusing the appeal memorandum , the court on the same day passed the following:

NITIN JAMDAR, C.J. & S. MANU, J.

W. A. Nos.395, 637, 754 & 755 of 2025 and
621, 636, 1027 & 1753 of 2024

Dated this the 11th day of April, 2025

ORDER

Nitin Jamdar, C.J.

Heard Mr. C. Muralikrishnan (Payyanur), learned counsel for the Appellants, Mr. Joseph Kodianthara, learned Senior Advocate as instructed by Mr. Vijay V. Paul, appearing for Respondent Nos.1 and 2, Mr. Ramesh Chander M., learned Senior Advocate as instructed by Mr. Shiyas K. R., appearing for Respondent Nos.3 and 5 in W. A. No.395 of 2025, and Mr. A. B. Mohanakumar, learned counsel for the Appellant in W. A. No.621 of 2024 and Mr. Praveen K. Joy, learned counsel for the Appellant in W. A. No.1027 of 2024.

2. There are eight appeals before us. Five of them are filed by the Union of India and others, which are; W. A. No.395 of 2025, 637 of 2025, 754 of 2025, 755 of 2025 and 1753 of 2024, two appeals filed by the borrowers, which are; W. A. Nos.621 of 2024 and 636 of 2024 and W. A. No.1027 of 2024 is filed by a home buyer, who is not a member of the Dewa Investors Association, the 1st Respondent in W. A. No.395 of 2025.

3. All these appeals have been filed challenging the common judgment delivered by the learned Single Judge dated 25 March 2024. The operative portion of the judgment reads thus :-

"The writ petitions are therefore disposed of with the following directions :-

(i) Ext.P12 order of the Kerala Real Estate Regulatory Authority to the extent it directs registration of the project and restrains sale of plot No.C5 is set aside. It is made clear that the Authority will be at liberty to proceed with the matter and pass final orders taking note of the judgment of this Court in W.A. No.999/2018.

(ii) The Consortium of Banks shall immediately release ₹24,75,67,192/- to a designated account of the Liquidator. The Liquidator is directed to pay the amount found due to the 66 members of Dewa Investors Association sans interest as found in document No.4 which is part of Ext.P9 in W.P.(C) No.39804/2023, at the earliest and at any rate within a period of one month.

(iii) The petitioners in W.P.(C) No.40397/2023 undertake to withdraw Complaint No.276 of 2022 filed before the Kerala Real Estate Regulatory Authority, Thiruvananthapuram, once the amount as directed above is paid to the home buyers.

(iv) In view of the reliefs granted to the home buyers as directed hereinabove, W.P.(C) No.14289/2016, W.P.(C) No.2298/2017 and W.P.(C) No.40397/2023 are disposed of.

(v) W.P.(C) No.36086/2023 is disposed of permitting the petitioner to approach the Liquidator of Dewa Projects Private Limited to consider her claim as per IBC.

(vi) W.P.(C) No.39936/2023 filed by co-borrower/ mortgager (land owner) is dismissed granting liberty to the petitioner to prosecute SA No.219/2023 before the Debts Recovery Tribunal-I, Ernakulam."

4. The learned counsel for the parties inform us that proceedings are pending before the National Company Law Tribunal (NCLT) in respect of

the liquidation of Dewa Projects Private Limited and a Liquidator is appointed, who is represented before us in these proceedings. By the impugned judgment, the learned Single Judge has directed the Consortium of Banks to release the amount specified in the judgment to a designated account of the Liquidator and the Liquidator was directed to pay the amount due to the 66 members of Dewa Investors Association. A further direction was issued regarding withdrawal of complaint filed before the Kerala Real Estate Regulatory Authority.

5. Considering the fact that a Liquidator is appointed by the NCLT and the liquidation proceedings are pending before it, a direction without reference to NCLT to the Liquidator to disburse the amount to only some of the claimants may be run in conflict with the proceedings pending before the NCLT. According to the Home Buyers' Association, there are no other claimants except the two whose interests have been addressed by the judgment of the learned Single Judge.

6. According to us, it would not be prudent or appropriate to pass an order based on the consent terms dated 3 April 2025 presented before us without reference to the pending proceedings before the NCLT. The appropriate course of action would be to permit the parties to apply to the NCLT based on the consent terms presented before us. Upon a scrutiny, if the NCLT finds that the proceedings pending before it are not affected by the consent terms, or that the subject matter falls outside the scope of the proceedings pending before it, the NCLT may render it's opinion.

Thereafter, further orders in these appeals can be passed, which may be kept pending in the meantime.

7. As regards the individual home buyer, the Appellant in W. A. No.1027 of 2024 is concerned, we permit her to make an application before the NCLT which will be taken up for consideration in the above mentioned scrutiny, in accordance with law. While scrutinizing the consent terms, the NCLT will also ascertain whether there are any other claimants regarding the dues of Dewa Projects Private Limited, such as individual investors, home buyers, etc.

8. The learned counsel for the Liquidator states that a copy of this order, along with a copy of the consent terms, will be placed before the NCLT for the aforesaid scrutiny. The Liquidator will issue notice to all the parties in these appeals, in accordance with the directions of the NCLT, regarding the matter moved before it. Accordingly, the NCLT will render its opinion/order to enable this Court to proceed with these appeals to their logical conclusion.

9. The learned counsel for the Appellant in W. A. No.1027 of 2024 states that the period during which the appeal was pending be excluded for the purpose of limitation in approaching the NCLT. In short, the Appellant is invoking the provisions of Section 14 of the Limitation Act, and it is for the appropriate court to determine whether the benefit of this provision may be granted or not.

10. Post on 5 June 2025. A copy of the consent terms is taken on record and marked as Exhibit X. The original is returned to the custody of the Liquidator for presenting before the NCLT.

Sd/-
NITIN JAMDAR
CHIEF JUSTICE

Sd/-
S. MANU
JUDGE

Jvt/11.4.2025

THE HIGH COURT OF KERALA
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