



**IN THE NATIONAL COMPANY LAW TRIBUNAL
KOCHI BENCH**

IA(IBC)/42/KOB/2025

IN

CP(IBC)/54/KOB/2022

(Under Section 60(5) of the IBC, 2016)

In the matter of:

M/s. Asten Realtors Private Limited

Memo of Parties:

M/s Pinnacle Piling (India) Private Limited, CIN U45202MH2009PTC197426, having registered office at 9, Dinar Building, Ground Floor, Station Road, Santa Cruz West, Mumbai, MH 400054

Represented by its Managing Director

Mr. Saikumar E K,

Ragam Veedu, Ponothu Road, Kaloor, Ernakulam, Kerala, 682017

Represented by his Power of Attorney

Mr. Anilkumar G Nalledath,

Nalledath, Manavatti Road, Panaikulam P O, Karumalloor ,Ernakulam 683511

...Applicant/Original Applicant No.3

-Vs-

Mr. Padmakumar K C

Liquidator of Asten Realtors Private Limited
T.C.15/1997(3) Fair Dreams, Womens
College North Gate, Trivandrum 695014

.....Respondent/Corporate Debtor

Order delivered on: 01.05.2025.



Coram:

Smt. Madhu Sinha

Shri. Vinay Goel

Hon'ble Member (Technical)

Hon'ble Member (Judicial)

Appearances:

For the Applicant : Mrs. Liza Meghan, Advocate

For the Respondent : Mr. Vinod P V, Advocate

ORDER

Per Coram:

1. This is an application filed by the homebuyer under Section 60(5) of the Insolvency and Bankruptcy Code, 2016 (hereinafter 'IBC'), read with Rule 11 of National Company Law Tribunal Rules, 2016 by M/s. Pinnacle Piling (India) Private Limited, homebuyer against the Liquidator of M/s Asten Realtors Private Limited / Respondent seeking the following reliefs: -

- I. Direct the respondent Liquidator to allow the applicant to be represented by his lawyer holding his vakalath in the liquidation proceedings before this Hon'ble Tribunal and before the liquidator in all proceedings; pleadings and communication but not limited to the SCC meetings of the Asten Realtors Private Limited in Liquidation in CP(IB)54/KOB/2022*
- II. Any other prayer as may be deemed fit in law*



The Brief facts of the case are as follows: -

2. Three Home Buyers filed an application under Section 7 of IBC against Corporate Debtor, and vide order dated 25.01.2023, this Tribunal admitted Corporate Debtor under Corporate Insolvency Resolution Process (hereinafter 'CIRP'), for two projects. Resolution Plans were successfully approved for two projects; however, for the third project, this Tribunal passed an order dated 19.11.2024, directing liquidation and appointing a Liquidator. The liquidator constituted a Stakeholders Consultation Committee (hereinafter 'SCC') under Regulation 31A of the Insolvency and Bankruptcy Board of India (Liquidation Process Regulations), 2016 (hereinafter 'IBBI (Liquidation Process) Regulations'). The Applicant has a voting share of 0.81 and has been classified as an Unsecured Financial Creditor.
3. The Applicant submitted that the Applicant Company, being represented by its busy managing partner, found it impractical to personally attend meetings and make timely decisions in the SCC. Therefore, the Company formally requested the Liquidator's permission to have its authorized lawyer participate in the meetings on its behalf. However, the liquidator refused the same. The SCC and its meetings are regulated as per Regulation 31A issued by the IBBI (Liquidation Process) Regulations. Nowhere in the said regulations it is mentioned that the Financial Creditor should not be represented by a lawyer.
4. The Applicant further submitted that the fundamental right to representation by a lawyer is inherent to litigants unless explicitly barred by statute. Only in a situation where the statute prescribes that



a party should appear by himself, the right to be represented through a lawyer could be restricted. If a party could be represented through an Authorized Representative, a lawyer is automatically entitled to represent their client. The contrary stand taken by the Respondent is a clear violation of the constitutional provision, which needs to be remedied and corrected forthwith, along with a strict warning. When there is no bar for a lawyer or a Vakalath holder to represent a financial creditor, the Liquidator in his own accord may not be permitted to create one.

5. The respondent filed their reply affidavit and prayed for the dismissal of the applications. It is the case of the respondent that IBC does not envisage representation of a creditor in Creditor's or Stakeholders' meetings through an advocate.
6. The Stakeholders Consultation Committee is an extension of the Committee of Creditors (CoC) and exercises the same functions as CoC to advise the Liquidator in taking commercial decisions with respect to the Liquidator of the Corporate Debtor. The IBC is a complete code in itself, having sufficient checks and balances, and applying provisions of Section 24(5) of the IBC, the creditor may appoint an Insolvency Professional to attend the meeting of Creditors. Therefore, the petitioner has an option to appoint an insolvency professional even during liquidation proceedings to represent the Company or any of its officers as an authorised representative supported by a Board Resolution of the Company to attend the meeting of SCC.
7. Further, respondent cited Section 30 of the Advocates Act, 1961, and submitted that said provision restricts the right of an Advocate to practice only before Courts and Tribunals, and the SCC does not fall



within the ambit of forums where a person can be represented through its Advocate. The SCC is not exercising any adjudicatory function and ultimately, praying for dismissal of the application.

8. Both parties also submitted their written arguments on the lines of their respective pleadings. It is submitted on behalf of the applicant that IBC or Rules and Regulations under IBBI do not create any express prohibition or limit the appearance of a lawyer in SCC. It is the fundamental right of a citizen to be represented through counsel, and the fundamental right forms part of due process and its right guaranteed under Article 21 of the Constitution of India.
9. Further, it is stated that a different facet of this issue is the legal right of a lawyer to practice his profession. It is the fundamental right of a citizen to practice their profession as per Article 19(f)(g) of the Constitution of India. However, it is not an absolute right but is subject to the terms and conditions laid down in the Advocates Act, 1961. So, the applicant may be permitted to plead through its counsel.
10. We have heard both sides and also gone through the records. In this case, as no Expression of Interest was obtained for the project in question. So, upon application, this Tribunal passed orders for liquidation and appointed the Liquidator. The liquidator, as per Regulation 31A of the IBBI (Liquidation Process) Regulations, constituted the Stakeholders Consultation Committee to assist the Liquidator and to take appropriate commercial decisions. At this juncture, we would like to reproduce relevant provisions of the IBC.

“31A. (1) The liquidator shall constitute a consultation committee, comprising of all creditors of the corporate

debtor, within sixty days from the liquidation commencement date, based on the list of stakeholders prepared under [regulation 31](#), to advise him on matters relating to-

(a) remuneration of professionals appointed under [regulation 7](#);

(b) sale under [regulation 32](#), including manner of sale, pre-bid qualifications, reserve price, marketing strategy and auction process.;

(c) fees of the liquidator;

(d) valuation under sub- regulation (2) of [regulation 35](#);

(e) the manner in which proceedings in respect of preferential transactions, undervalued transaction, extortionate credit transaction or fraudulent or wrongful trading, if any, shall be pursued after closure of liquidation proceedings and the manner in which the proceeds, if any, from these proceedings shall be [distributed;]

(f) review of marketing strategy in case of failure of sale of corporate debtor as a going concern;

(g) continuation or institution of any suits or legal proceedings by or against the corporate debtor;

(h) extension of payment of balance sale consideration as provided in clause (12) of Para 1 of Schedule I, beyond ninety days, to be disclosed in the auction notice.]

(1A) The committee of creditors under [section 21](#) shall function as the consultation committee with same voting

rights till constitution of the consultation committee under sub-regulation (1)."

11. Admittedly, in this case, the applicant is a Private Limited Company and the reasons cited in the application that the Managing Partner of the Company is a busy person engaged in the day-to-day affairs of the company and it is impracticable for him to participate in the meetings and thereafter take important decision in SCC, appeared to be a vague excuse. There is no need for the Managing Directors or any other person to personally attend the SCC meetings. He can appoint any other employee or its directors, or else he can appoint an Insolvency Professional to participate in the meetings of SCC.
12. The Advocate enjoys certain privileges and immunities while representing its client before any court and certainly, person representing any Stakeholder before SCC or CoC would not be able to claim any such privileges or immunities in any manner. But the appointment of an Advocate would be restricted by Section 30 of the Advocates Act, 1961. As the Stakeholders Consultation Committee does not have any judicial or quasi-judicial authority or is not vested with any such power to record evidence and in no way authorised to record any evidence and adjudicate matters. It has only a consultative role, so Section 30 of the Advocates Act, 1961 prohibits any representation through an Advocate by a Stakeholder in a Committee of Creditors or Stakeholders Consultation Committee constituted under the provisions of IBC.
13. As far as arguments regarding right to practice and violation of Article 21 of the Constitution of India are concerned, the right to practice is not an absolute right, and even representation through counsel or



agent of one's choice is not an absolute right and can be controlled and restricted, or regulated by laws, rules, or regulations.

14. Hon'ble Supreme Court of India in case ***State Bank of India v/s M/s Jah Developers Private Limited, 2019 AIR Supreme Court 2854*** has pleased to dealt with such issue and is reproduced for ready reference:

"A. Advocates Act, 1961 Section 30 Wilful defaulter under circular of RBI – Right to be represented by advocate- Advocate has right to appear before authority invested with judicial power – In house Committee appointed under Revised Circular of RBI is not vested with judicial power of State – Judicial power is power to decide lis between parties after taking evidence and applying law as result of which binding decision is then reached – No lawyer has right to appear before in house committee.

B. Constitution of India, 1950 Article 19(1)(g) Wilful defaulter – Fundamental right to carry on business – Moment a person is declared to be wilful defaulter – Impact on his fundamental right to carry business is direct and immediate."

15. Applying the same principles, we are of the opinion that the application is devoid of any merit and the Applicant has no right to represent through any advocate before the SCC. Further, the Applicant would be at liberty to make a representation through its authorised officer or Insolvency Professional, as the case may be. It appears that



the applicant has filed this instant application with some ulterior motive and with a view to delay the liquidation process.

16. The application merits dismissal, and the **IA(IBC)/42/KOB/2025** is **dismissed with a cost of Rs. 10,000/-** (Rupees Ten Thousand Only) to be deposited in the National Defence Fund. The applicant is directed to file a compliance memo to this effect within one week. The liquidator is also directed to take note of this order. Further liquidator is directed to complete the liquidation process expeditiously as mentioned in IBC.
17. The Registry is directed to send e-mail copies of the order forthwith to all the parties and their Authorized Representative for information and for taking necessary steps.
18. Certified Copy of this order may be issued, if applied for, upon compliance of all requisite formalities.
19. File be consigned to records.

SD/-
MADHU SINHA
(MEMBER TECHNICAL)

SD/-
VINAY GOEL
(MEMBER JUDICIAL)

Signed on this the 01st day of May 2025.

Anjali/Steno