



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

IA (IBC) No. 95/KOB/2023

In

IA (IBC) No. 74/KOB/2023

In

C.P (IB) No. 01/KOB/2021

In the Matter of:

Application to keep the liquidation application in abeyance pursuant to NCLT Rule 11.

-And-

In the Matter of:

Dileep K.P, IBBI Reg No. IBBI/IPA-001/IP-P01310/2018-2019/12220,
Veluthedath House, Ponnurunni, Vytilla P.O, Kochi- 682019 Resolution
Professional of M/s. Nucleus Premium Properties Private Limited

... Applicant

-In-

In the Matter of:

Anoop John, Blessy and Ors;

...Financial Creditor

-Versus-

Nucleus Premium Properties Pvt. Ltd

...Corporate Debtor

Coram:

Shri P. Mohan Raj : Member (Judicial)

Shri Satya Ranjan Prasad : Member (Technical)

Appearances (through video conference):

For the Applicant : Mr. Prashanth Kumar, Adv.

Order reserved on: 15.03.2023

Order pronounced on: 17.03.2023



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ORDER

1. This is an application filed by the Resolution professional under Rule 11 of NCLT Rules 2016 with ambiguous prayer. The corporate debtor was admitted into CIRP on 18.11.2021, the applicant is appointed as IRP and then as RP. When no resolution plan is acceptable to the COC even after expiry of 450 days from the date of admission of the corporate debtor till 10.02.2023, the applicant filed the liquidation application under section 33(1) of IBC 2016 in I.A.No.74/KOB/2023. The said application was heard on 22.02.2023 and reserved for orders. Now the applicant filed this application seeking relief as follows:

Permitting the Resolution Professional to Convene a CoC meeting after taking home allottees voting in order to review the liquidation application filed with Hon'ble NCLT and to Seek approval of Hon'ble NCLT for a short extension of CIRP period (from 10/2/2023) if needed, so as to reconsider the modified resolution plan submitted by Resolution Applicant M/s. Buildwell.

2. The applicant has filed this application on his own, the already extended period of CIRP expired on 10.02.2023. The applicant filed the liquidation application on 08.02.2023. Now the applicant filed this application seeking permission to convene a COC meeting to consider the modified plan submitted by one of the Resolution applicants on 07.02.2023, but no application has been filed for extension of CIRP period, without extending the CIRP period no order can be passed to convene COC meeting. The office of Resolution professional also defuncts after the expiry of the extended period of resolution process with 10.02.2023. There is no explanation why the Resolution professional kept silent till 22.03.2023 the day on which the liquidation petition was heard and reserved for orders and what is the new situation emerged or prompted him to file this application. The applicant Resolution professional cannot maintain two applications



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simultaneously with inconsistent reliefs. The counsel who appeared for the applicant pleaded to keep the liquidation application in abeyance. This submission is unsustainable because there is no hiatus between the date on which the application is reserved for orders and the date of pronouncement of order. This legal position is reiterated by the Apex court decision reported in AIR 1964 SC 993, Arjun Singh -vs- Mohindra Kumar, for the proposition that once the Court reserves judgment after the completion of hearing, parties have no further rights or privileges in the matter and that there is no hiatus between the two stages of reservation of judgment and pronouncing the judgment so as to make it necessary for the Court to afford to a party the remedy of getting orders in the interregnum. In the circumstances, this application is devoid of merits and not maintainable under the law.

In the result, application is **Dismissed**.

3. The Registry is directed to send e-mail copies of the order forthwith to all the parties and their Ld. Counsel for information and for taking necessary steps,
4. Certified Copy of this order may be issued, if applied for, upon compliance of all requisite formalities.

SATYARANJAN PRASAD Digitally signed by SATYARANJAN PRASAD
Date: 2023.03.17 15:57:40 +05'30'

Satya Ranjan Prasad
Member (Technical)

PANDIAN MOHAN Digitally signed by PANDIAN
MOHAN RAJ
Date: 2023.03.17 15:17:06 +05'30'
RAJ

P. Mohan Raj
Member (Judicial)

Signed on this 17th day of March, 2023.