

NATIONAL COMPANY LAW TRIBUNAL,
MUMBAI BENCH COURT VI

Item No. P-3
C.P. (IB)/730/MB/2025

CORAM:

SHRI SAMEER KAKAR
HON'BLE MEMBER (TECHNICAL)

SHRI NILESH SHARMA
HON'BLE MEMBER (JUDICIAL)

ORDER SHEET OF HEARING (HYBRID) DATED **29.01.2026**

NAME OF THE PARTIES: **Canara Bank**

Vs.

Fortune's Sparsh Healthcare Private Limited

Under Section 7 of the IBC.

ORDER

The case is fixed for the pronouncement of the order. The order is pronounced in the open court, *vide* separate order. A detailed order is being uploaded on the NCLT portal today.

Sd/-
SAMEER KAKAR
MEMBER (TECHNICAL)

//AS//

Sd/-
NILESH SHARMA
MEMBER (JUDICIAL)

**IN THE NATIONAL COMPANY LAW TRIBUNAL
MUMBAI BENCH – VI**

CP(IB)/730/MB/2025

*(filed Under Section 7 of the Insolvency and Bankruptcy Code,
2016 read with Rule 4 of the Insolvency and Bankruptcy
(Application to Adjudicating Authority Rules, 2016)*

CANARA BANK

Having its registered Head Office at
112, Jaya Chamarajendra Road, Bangalore
560002, having its branch amongst other
branches, inter alia, at Plot No. 35
Mukund Niwas, Sion, Mumbai - 400001
Through its Authorised Officer Mr. Sunil Kumar Shaw

... Applicant/Financial Creditor

Vs.

FORTUNE'S SPARSH HEALTHCARE PVT. LTD.

Having its registered Office at
Office No. 19, N. B. Arcade,
Akurdi Main Road, Akurdi, Pune - 411 035

... Respondent/Corporate Debtor

Order pronounced on: 29.01.2026

CORAM :

**SH. NILESH SHARMA, HON'BLE MEMBER (JUDICIAL)
SH. SAMEER KAKAR, HON'BLE MEMBER (TECHNICAL)**

APPEARANCE (IN HYBRID MODE)

For Financial Creditor: Adv. Adv. Mr. Rohan Agarwal a/w Adv. Ms.
Sabeena Mahadik, Adv. Mr. Pankaj Uttaradhi
i/b S R Legal

For Corporate Debtor: Adv. Mr. Kuldeep Adesara

ORDER

PER: SAMEER KAKAR, MEMBER (TECHNICAL)

1. This is an Application filed under Section 7 of Insolvency and Bankruptcy Code, 2016 by **Canara Bank (hereinafter referred to as “the Financial Creditor”)** against **Fortune's Sparsh Healthcare Pvt. Ltd. (hereinafter referred to as “the Corporate Debtor”)** seeking commencement of CIRP, appointment of IRP and declaration of moratorium upon the Respondent.
2. Perusal of the Part I of the Application reveals that the Applicant is **Canara Bank** (hereinafter referred to as “**the Financial Creditor**”) “having its registered Head Office at 112, Jaya Chamarajendra Road, Bangalore 560002 and having its branch amongst other branches, inter alia, at Plot No. 35, Mukund Niwas, Sion, Mumbai – 400001, who has filed this Application through its Authorised Officer Mr. Sunil Kumar Shaw duly authorised by authority letter dated 26.06.2025.
3. Part II of the application reveals that the Corporate Debtor is one **Fortune's Sparsh Healthcare Pvt. Ltd.** The Corporate Debtor is registered under CIN: U85100PN2015PTC154429 and was incorporated on 20.03.2015. The registered office of the Corporate Debtor is located at Office No. 19, N. B. Arcade, Akurdi Main Road, Akurdi, Pune - 411 035.
4. Perusal of the Part III reveals that the Applicant has named **Mr. Birendra Kumar Agrawal**, 402, Corporate Annexe, Sonawala Lane Near Udyog Bhavan, Goregaon East, Mumbai City, Maharashtra, 400063, Email ID: **bk@bhamaconsulting.com** having **IP Registration No. IBBI/IPA-001/IP-P00564/2017-2018/11040** as the proposed IRP in case the Application is admitted. The proposed IRP has given his consent in Form No. 2, which is

appended at Page No. 40 to 42. The AFA of the proposed IRP is valid till 30.06.2027.

5. Perusal of the Part IV reveals that the Respondent herein has availed credit facilities amounting to Rs.4,90,00,000/- (Rupees Four Crore Ninety lakhs Only) from the Financial Creditor, which was sanctioned vide letter dated 24.03.2022, which is annexed as **Annexure No. D** to the Application.
6. It is stated that the amount of Rs. 4,90,00,000/- was disbursed to the Corporate Debtor on 24.03.2022.
7. The Applicant herein is claiming an amount of Rs. 5,23,22,682.82/- as on 24.06.2025.
8. The date of default is stated as 24.08.2022.
9. It is stated that the account of the Corporate Debtor was classified as NPA on 22.11.2022 by the Financial Creditor as per the guidelines issued by the Reserve Bank of India.
10. The Applicant has attached the NPA certificate at **Annexure – E**.
11. The Financial Creditor is holding the following securities :-
 - A. Hypothecated Assets: Hypothecation charge on all stocks of goods such as raw materials, goods in process, finished and manufactured and other items of stock in trade and stores, spares, component, machinery, vehicles, furniture and fixture and all other movable goods etc.
 - B. Charge on the immovable properties owned by the Guarantors by way of equitable mortgage. Details of the mortgaged properties are more particularly described in Schedule annexed to the Application as **Annexure 'F'**.

12. The Applicant has attached record of default with information utility as **Annexure no. G**. Perusal of the same reveals that the status of authentication of default is “Authenticated” and the Date of Default mentioned therein is 24.08.2022.
13. The Applicant is relying upon the following documents :-
- a) **Board Resolution by Corporate Debtor**- The Board of directors of Corporate Debtor passed resolution in its board meeting dated 05.03.2022 and authorized the Corporate Debtor to avail the credit facilities upto principal amount of Rs. 4.90 Crore from the Financial Creditor Bank in terms of sanction letter dated 24.03.2022. (annexed and marked as **Annexure 'J'**)
 - b) Copy of the Loan Application dated 5th March 2022 submitted by Corporate Debtor whereby Corporate Debtor applied for availment of loan from Financial Creditor to take over the loan facility of Corporate Debtor from Union Bank of India. (Annexed as **Annexure 'K'**)
 - c) Copy of letter dated 24th March 2022 being ref. No. CB/SION/112/FORTUNE/MSM issued by Financial Creditor to Union Bank of India, Aundh Branch, Pune, inter alia, informing that the loan accounts of Corporate debtor have been taken over by the Financial creditor and handing over the demand Drafts towards the outstanding amount of Union Bank Of India. Union Bank of India duly acknowledged the receipt of the letter and demand drafts. (Annexed hereto as **Annexure 'L'**)
 - d) Copy of No dues certificate dated 20th April 2022 issued by Union Bank of India upon receipt of the entire amount on behalf of Corporate Debtor and releasing its charge over the properties of Corporate debtor. (Annexed as **Annexure 'M'**)

- e) Guarantee Agreement dated 24th March 2022 executed by the Guarantors i.e. Mr. Amit Anant Wagh and Ms. Rucha Amit Wagh, in favour of the Financial Creditor, whereby the guarantors inter alia irrevocably agreed, undertook and guaranteed with the Financial Creditor that in the event of any default on part of the Corporate Debtor in payment/repayment of the Loan amounting to Rs. 4,90,00,0001-/ (Rupees Four Crore Ninety Lakhs only) extended to the Corporate Debtor for the purpose and on the terms and conditions contained therein or in the event of default on the part of the Corporate Debtor, the Guarantors shall upon demand forthwith pay to the Financial Creditor without demur all the amounts payable by the Corporate Debtor under the aforesaid loan facility. (Annexed and marked as **Annexure 'N'** and as **Annexure 'O'**)
- f) Letter evidencing deposit of title deeds dated 21st April 2022 whereby Corporate debtor created Mortgage, as borrower by Deposit of Title Deeds on 21st April 2022 of immovable property more particularly described in **Annexure "F"** in favour of the Applicant as security for the repayment of the dues payable by the Corporate Debtor. Borrower executed Letter Evidencing Deposit of title deeds dated 21st April 2022 on behalf of Corporate debtor and confirmed that he has deposited the original title documents with an intent to create security by way of equitable mortgage, within the meaning of section 58 (f) of the Transfer of Property Act, 1982 in favour of the Financial Creditor in respect of the immovable properties more particularly described in Annexure F to secure the repayment of the credit facility due and owing by Corporate debtor to the Financial Creditor inclusive of renewals thereof from time to time. (Annexed and marked as **Annexure 'P'**)

- g) The Financial Creditor through its Advocate issued Notice of Demand Notice dated 7th December 2022 to inter alia the Corporate Debtor and the Guarantors / Mortgagors, recalling the entire Loan with the outstanding sum due as on 29th November 2022 amounting to Rs. 4,52,23,040.05/- (Rupees Four Crore Fifty Two lakhs Twenty Three Thousand Forty and Paise Five) along with further interest, default interest and other monies payable thereon at the contractual rate, till payment and/or realization. (Annexed and marked as **Annexure 'O'**)
14. The Applicant has attached the statement of the account and Bankers Books Evidence Act Certificate as **Annexure no. I**.
15. An Additional Affidavit was filed by the Applicant, which is dated 11.08.2025, attaching therewith a revised certificate under the Bankers Books Evidence Act 1891 and a common hypothecation agreement.
16. Order of this Tribunal dated 18.08.2025 records that issuance of notice was waived by the Respondent's Counsel.
17. Affidavit in reply was filed by the Corporate Debtor which is dated 01.11.2025.
18. The summary of the various objections raised by the Corporate Debtor are as below:-
- i. The Financial Creditor has already invoked the provision of SARFAESI Act, 2002 and issued possession notice as such the present petition is a forum shopping and abuse of process.
 - ii. The dual invocation of remedies under two distinct legislations i.e. IBC and SARFAESI for the same cause constitutes a misuse of process and harassment to the Respondent.

- iii. The present petition is contrary to the object of IBC and is harassment and coercion on the part of the Financial Creditor.
19. From the reply, it is seen that the Respondent has not denied the existence of debt and default.
20. Written submissions have been filed by the Financial Creditor which have been considered.

Analysis and Findings:-

21. It is seen from the record that the Financial Creditor has sanctioned the term loan facility of Rs. 4.90 crores to the Respondent/Corporate Debtor to take over the then existing debt from Union Bank of India (sanction letter is attached as Annexure-D on page no. 43), upon an Application made by the Corporate Debtor dated 05.03.2022.
22. The Financial Creditor has disbursed the loan of Rs. 4.90 crores to the Respondent on 24.03.2022.
23. The Corporate Debtor executed necessary documents to secure the loan amount in favour of the Financial Creditor.
24. The Corporate Debtor executed common hypothecation agreement dated 24.03.2022 and created charge over movable assets of the Corporate Debtor.
25. It is seen that the Corporate Debtor failed to maintain the financial discipline and ultimately defaulted in payment of the loan amount and the account of the Corporate Debtor was classified as NPA on 22.11.2022 for which the necessary NPA certificate is attached to the Application by the Applicant as Annexure "E".

26. Applicant has attached the record of the default in Form-D at page no. 11 to the Additional Affidavit dated 11.08.2025, which states the status of authentication of default as “AUTHENTICATED”.
27. The total claim amount claimed in the Application is Rs. 5,23,22,682.82/-
28. The Respondent herein has not denied the existence/disbursement of the loan or the commitment of default.
29. The only plea raised by the Respondent is regarding pending proceedings initiated by the Applicant herein under SARFAESI Act, 2002 (Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act), which in our view cannot be sustained.
30. Proceedings under SARFAESI Act, 2002 do not bar the Financial Creditor to initiate the Section 7 Application and this has been held in a Catena of Judgments by higher forums. One such judgement is of Hon’ble NCLAT, New Delhi in **Punjab National Bank v. M/s Vindhya Cereals Pvt. Ltd.** [Company Appeal (AT) (Insolvency) No. 854 of 2019] where it was held that:

“9. In the light of above pronouncement, we are of the considered view that the Financial Creditor can proceed simultaneously under SARFAESI Act, 2002 as well as under I&B Code. Section 238 of I&B Code provides that the provisions of this code shall have effect, notwithstanding anything inconsistent therewith contained in any other law for the time being in force or any instrument having effect by the virtue of any such law. Thus, the non-obstante clause of the I&B Code will prevail over any other law for the time being in force.

10. In such circumstance, we are of the considered view that Ld. Adjudicating has incorrectly held that after initiating

proceedings under SARFAESI Act the Appellant i.e. Financial Creditor should be precluded from filing application under Section 7 of I&B Code.”

31. Further, the Hon'ble Supreme Court in the case of ***Innoventive Industries Limited v. ICICI Bank Limited***, (Civil Appeal Nos. 8337-8338 of 2017) (2017) 8SCR 33 has discussed extensively the scope of the power of the Adjudicating Authority under section 7 of the IBC and has held that the same is limited to assessing the records provided by the financial creditor to satisfy itself that the default has occurred. The relevant portion of the said Judgment is reproduced below:

“28. When it comes to a financial creditor triggering the process, Section 7 becomes relevant. Under the explanation to Section 7(1), a default is in respect of a financial debt owed to any financial creditor of the corporate debtor – it need not be a debt owed to the applicant financial creditor. Under Section 7(2), an application is to be made under sub-section (1) in such form and manner as is prescribed, which takes us to the Insolvency and Bankruptcy (Application to Adjudicating Authority) Rules, 2016. Under Rule 4, the application is made by a financial creditor in Form 1 accompanied by documents and records required therein. Form 1 is a detailed form in 5 parts, which requires particulars of the applicant in Part I, particulars of the corporate debtor in Part II, particulars of the proposed interim resolution professional in part III, particulars of the financial debt in part IV and documents, records and evidence of default in part V. Under Rule 4(3), the applicant is to dispatch a copy of the application filed with the adjudicating authority by registered post or speed post to

the registered office of the corporate debtor. The speed, within which the adjudicating authority is to ascertain the existence of a default from the records of the information utility or on the basis of evidence furnished by the financial creditor, is important. This it must do within 14 days of the receipt of the application. It is at the stage of Section 7(5), where the adjudicating authority is to be satisfied that a default has occurred, that the corporate debtor is entitled to point out that a default has not occurred in the sense that the “debt”, which may also include a disputed claim, is not due. A debt may not be due if it is not payable in law or in fact. The moment the adjudicating authority is satisfied that a default has occurred, the application must be admitted unless it is incomplete, in which case it may give notice to the applicant to rectify the defect within 7 days of receipt of a notice from the adjudicating authority. Under sub-section (7), the adjudicating authority shall then communicate the order passed to the financial creditor and corporate debtor within 7 days of admission or rejection of such application, as the case may be.

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30. On the other hand, as we have seen, in the case of a corporate debtor who commits a default of a financial debt, the adjudicating authority has merely to see the records of the information utility or other evidence produced by the financial creditor to satisfy itself that a default has occurred. It is of no matter that the debt is disputed so long as the debt is “due” i.e. payable unless interdicted by some law or has not yet become due in the sense that it is payable at some future date. It is only when this is proved to the

satisfaction of the adjudicating authority that the adjudicating authority may reject an application and not otherwise”.

32. Application is filed on **04.07.2025** which is within limitation period i.e. 3 years from the date of default **24.08.2022**.
33. In view of the facts as stated *supra* and also in view of the ‘financial debt’ which is proved by the Financial Creditor and the default exceeding the threshold of Rs. One Crore as per Section 4 of the IBC, 2016, having been committed on the part of the Corporate Debtor, this Tribunal is left with no other option but to proceed with the present case and initiate the Corporate Insolvency Resolution Process in relation to the Corporate Debtor. We also notice that the Application is complete as all the required details and documents are provided/attached.
34. We also find that as per the consent form attached, no disciplinary proceedings are pending against the IRP proposed to be appointed under the Application.

ORDER

In view of the aforesaid findings, this Application bearing C.P. (IB) No. 730/MB/2025 filed under Section 7 of IBC, 2016, by Canara Bank, the Applicant (OC) for initiating CIRP in respect of Fortune’s Sparsh Healthcare Private Limited, the CD, is **admitted**.

We further declare a moratorium under Section 14 of IBC, 2016 with consequential directions as mentioned below:

- I. We prohibit:

- a) the institution of suits or continuation of pending suits or proceedings against the Corporate Debtor, including the execution of any judgment, decree, or order in any court of law, tribunal, arbitration panel, or other authority;
 - b) transferring, encumbering, alienating, or disposing of by the Corporate Debtor any of its assets or any legal right or beneficial interest therein;
 - c) any action to foreclose, recover, or enforce any security interest created by the Corporate Debtor in respect of its property, including any action under the Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002, and;
 - d) the recovery of any property by an owner or lessor where such property is occupied by or in possession of the Corporate Debtor.
- II. That the supply of essential goods or services to the Corporate Debtor, if continuing, shall not be terminated or suspended or interrupted during the moratorium period.
- III. That the order of moratorium shall have effect from the date of this order till the completion of the CIRP or until this Tribunal approves the resolution plan under Section 31(1) of the IBC or passes an order for the liquidation of the Corporate Debtor under Section 33 thereof, as the case may be.
- IV. That the public announcement of the CIRP shall be made immediately as specified under Section 13 of the IBC read with Regulation 6 of the IBBI

(Insolvency Resolution Process for Corporate Persons) Regulations, 2016 and other Rules and Regulations made thereunder.

- V. That this Bench hereby appoints **Mr. Birendra Kumar Agrawal**, having **Registration No. as IBBI/IPA-001/IP-P00564/2017-2018/11040**, and **e-mail address bk@bhamaconsulting.com**, having a valid AFA till **30.06.2027**, as the IRP to carry out the functions under the IBC. .
- VI. That the fee payable to IRP/RP shall be in accordance with such Regulations/Circulars/ Directions as may be issued by the IBBI.
- VII. That during the CIRP Period, the management of the Corporate Debtor shall vest in the IRP or, as the case may be, the RP in terms of Section 17 or Section 25, as the case may be, of the IBC. The officers and managers of the Corporate Debtor are directed to provide all assistance to the IRP as and when he takes charge of the assets and management of the Corporate Debtor. Coercive steps will follow against them under the provisions of the IBC read with Rule 11 of the NCLT Rules for any violation of law.
- VIII. That the IRP/IP shall submit to this Tribunal monthly reports with regard to the progress of the CIRP in respect of the Corporate Debtor.
- IX. In exercise of the powers under Rule 11 of the NCLT Rules, 2016, the Financial Creditor is directed to deposit a sum of Rs.3,00,000/- (Three Lakh Rupees) with the IRP to meet the initial CIRP cost arising out of issuing public notice and inviting claims, etc. The amount so deposited shall be interim finance and paid back to the Financial Creditor on priority upon the funds becoming available with IRP/RP from the Committee of Creditors

(CoC). The expenses incurred by IRP out of this fund are subject to approval by the CoC.

- X. A copy of this Order be sent to the Registrar of Companies, Maharashtra, Mumbai for updating the Master Data of the Corporate Debtor.
- XI. The IRP is directed to issue notice of admission upon all the statutory authorities of the Corporate Debtor without fail.
- XII. A copy of the Order shall also be forwarded to the IBBI for record and dissemination on their website.
- XIII. The Registry is directed to immediately communicate this Order to the Financial Creditor, the Corporate Debtor and the IRP by way of Speed Post, e-mail and WhatsApp.
- XIV. **Compliance report of the order by Designated Registrar is to be submitted today.**

Sd/-

**SAMEER KAKAR
MEMBER (TECHNICAL)**

//frk , AS//)

Sd/-

**NILESH SHARMA
MEMBER (JUDICIAL)**