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**(2020) 01 NCLT CK 0067**

**In the National Company Law Appellate Tribunal, Pricipal Bench, New Delhi**

**Case No :** Company Petition No. (IB)-931 (PB) Of 2018

Gian Finance Limited

APPELLANT

Vs

Puri Constructions Pvt. Ltd.

RESPONDENT

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**Date of Decision :** 03-01-2020

**Acts Referred:**

Insolvency And Bankruptcy Code, 2016 — Section 7, 7(1), 21(6A)(a), 21(6A)(b)

**Citation :** (2020) 01 NCLT CK 0067

**Hon'ble Judges :** M.M. Kumar, CJ; Santanu Kumar Mohapatra, Member (Technical)

**Bench :** Division Bench

**Advocate :** Lalit Mohan, Videh Vaish, K. Venugopal, Pravin Bahadur, Kanika Gambhir, Amit Aggarwal, Saurabh Nirupam

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**Judgement**

The Insolvency and Bankruptcy Code (Amendment) Ordinance, 2019 (No. 16 of 2019) amending the Insolvency and Bankruptcy Code, 2016 has been published in the Gazette of India on 28.12.2019. Under sub-section 2 of Section 1 of the Ordinance the amended provisions come into force at once. Accordingly, the Insolvency and Bankruptcy Code (Amendment) Ordinance, 2019 assented by Hon'ble President has come into force with effect from 28th December, 2019.

As per the aforesaid Ordinance in sub-section 1 of Section 7 of the Code before the explanation the following provisos have been inserted:

"Provided that for the financial creditors, referred to in clauses (a) and (b) of sub-section (6A) of section 21, an application for initiating corporate insolvency resolution process against the corporate debtor shall be filed jointly by not less than one hundred of such creditors in the same class or not less than ten per cent. of the total number of such creditors in the same class, whichever is less:

Provided further that for financial creditors who are allottees under a real estate project, an application for initiating corporate insolvency resolution process

against the corporate debtor shall be filed jointly by not less than one hundred of such allottees under the same real estate project or not less than ten per cent of the total number of such allottees under the same real estate project, whichever is less:

Provided also that where an application for initiating the corporate insolvency resolution process against a corporate debtor has been filed by a financial creditor referred to in the first or second provisos and has not been admitted by the Adjudicating Authority before the commencement of the Insolvency and Bankruptcy Code (Amendment) Ordinance, 2019, such application shall be modified to comply with the requirements of the first or second provisos as the case may be within thirty days of the commencement of the said Ordinance, failing which the application shall be deemed to be withdrawn before its admission."

In view of the last proviso of amended sub-section 1 of Section 7 of the Code pending applications of allottees under Real Estate Projects which have not yet been admitted are required to be modified so as to comply with the amended provisions of Section 7 of the Act.

Accordingly, in the following Company Petition Numbering IB-931(PB)/2018, IB-1662(PB)/2018, IB-358(PB)/2019, IB-359(PB)/2019, IB-360(PB)/2019, IB-361(PB)/2019, IB-1737(PB)/2018, IB-2209(PB)/2019, IB-2210(PB)/2019, IB-2248(PB)/2019, IB-2364(PB)/2019, IB-2365(PB)/2019, IB- 2366(PB)/2019, IB-2367(PB)/2019, IB-2368(PB)/2019, IB- 2388(PB)/2019, IB-2456(PB)/2019, IB-2458(PB)/2019, IB-2491(PB)/2019, IB-2521(PB)/2019, IB-2605(PB)/2019, IB-2606(PB)/2019, IB-2723(PB)/2019, IB-2724(PB)/2019, IB-2235(PB)/2019 following directions are issued.

The Corporate Debtor is directed to furnish detail information in relation to number of allottees involved in the Real Estate Projects in question to the petitioner within 7 days hereof.

The petitioner is also directed to modify the company petition suitably so as to comply with the requirements of amended provisions of Section 7 of the Act before the next date of hearing.

The hearing is deferred to 22.01.2020 for compliance.