
(2026) 07 NCLAT CK 0056

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

Case No : Company Appeal (AT) (Ins) No.1167 of 2026

Indian Bank (Erstwhile Allahabad Bank) APPELLANT

Vs

Nimitaya Hotels & Resorts Ltd. RESPONDENT

Date of Decision : 06-07-2026

Acts Referred:

Citation : (2026) 07 NCLAT CK 0056

Hon'ble Judges : Justice N. Seshasayee, Member (Judicial); Barun Mitra, Member (Technical)

Bench : Division Bench

Advocate : For Appellant: Mr. Rajesh Kumar Gautam, Mr. Anant Gautam, Mr. Vibhu Sharma, Mrs. Likivi K. Jakhadu, Ms. Azal Ackram, Mr. Rishi Chauhan, Advocates For Respondent: Mr. Gopal Jain, Sr. Advocate with Mr. Abhishek Anand, Mr. Karan Kohli, Ms. Palak Kalra, Ms. Manuj Nagrath, Advocates Mr. Navneet Kumar Gupta, RP in person Mr. Sumesh Dhawan, Mr. Ajay Kumar, Mr. Pankaj Sethi, Mr. Vijayant Goel, Mr. Sagar Thakkar, Ms. Kavya Tekriwal, Advocates

Final Decision : Disposed Of

Judgement

Per Justice N. Seshasayee, Member (Judicial)

This appeal is preferred by the financial creditor fundamentally for expunging certain observation made against it. The background facts may be stated as below:-

a) The appellant, sole financial creditor constituting the one member COC, had moved the Adjudicating Authority and an application in I.A. 5980 of 2025, sometime in December, 2025 for a direction to the RP to convene a meeting of the COC and in the alternative, an Order for replacing the resolution professional. This was pending.

b) During the pendency of the above referred I.A. 5980 of 2025, on 11.02.2026 in the 27thCOC meeting the COC comprising solely of the appellant herein has

resolved to replace the resolution professional. Thereafter, the appellant moved I.A. No.1222 of 2026 in which he actually sought for replacing of the RP. In other words, what was sought as an alternate prayer in I.A. 5980 of 2025 became the main prayer in I.A. 1222 of 2026. The matter came up before the Bench on 20.03.2026 and since both the applications pending before it, seek the same relief, the Adjudicating Authority has required the appellant to indicate which one of the two applications it is inclined to withdraw and require the appellant to file an affidavit.

c) Whereas a two line affidavit would have sufficed. The appellant chose to write a very elaborate affidavit dated 31.03.2026 wherein it has made certain allegations against the resolution professional.

d) This is the setting. The Adjudicating Authority was not happy about the kind of an affidavit which the appellant has filed. The Adjudicating Authority did not choose to take the affidavit dated 31.03.2026 on record. Dealing with that, it has observed in paragraph – 5 of its Order now impugned before us as below:

"We are constrained to observe that filing of this kind of affidavit in the name of compliance of the Court's order prima facie does not appear to be bonafide."

The Adjudicating Authority proceeded to record the following in para-7:

"At this juncture we record an event which happened before us as below. The moment we pronounced the gist of our order in open court Mr. Sanjeev Sen, Sr. Advocate, who had earlier joined through VC to assist his junior appeared physically before us and began to argue in the matter. We pointed out that matter has already been heard and decision pronounced. He made a query from us- whether this affidavit is not enough compliance of Courts order? We answered in negative and clarified that he will find the reasons in our order which shall be uploaded in due course of time. We observe that the tone and tenor of the counsel was not dignified and acceptable. As far as the reasons for not treating the affidavit filed as purported compliance of our order we have already put them into writing."

2. This appeal is now filed to expunge these remarks. Heard both sides. While the submission of the learned Counsel for the appellant is candid, that which are made by the respondent are forceful. Eventually, the issue is all about whether the Adjudicating Authority should have used the expression, the conduct of the appellant in filing a long affidavit is not bona fide. The second one, however, involves a designated Senior Counsel of the appellant.

3. So far as the second issue is concerned, it is a matter concerning the learned Senior Counsel and the appellant may not have the locus standi to present the case. This apart, what is transpired in the Court is a matter between the learned Counsel and the Adjudicating Authority. And we do not want to pass any opinion on that. Suffice to say that the Advocate's job is a profession in pressure cooker and there may be a bad day for an Advocate. This allows the issues that may have to be approached with grace and magnanimity. And we only therefore require the learned Senior Counsel to approach the Adjudicating Authority if he is so desirous. Turning to the opinion of the Adjudicating Authority that the conduct

of the appellant in filing a long affidavit is not bona fide his concern, we merely record this could have been avoided when a two line affidavit would have sufficed itself, may not be termed as bona fide for it. It may at the best indicate that the appellant is over jealous in presenting its case. At any rate, this affidavit was not taken on record. There cannot be a greater indictment than to deal with situation such as this with greater magnanimity.

4. We, therefore, only expunge the expression:

"We are constrained to observe that filing of this kind of affidavit in the name of compliance of the Court's order prima facie does not appear to be bonafide."

Before winging up, we are informed that the CIRP proceeding is pending for some time and we require the Adjudicating Authority to expedite hearing.

the appeal is accordingly disposed of.

Pending I.A.s, if any, also stand disposed of.