
(2019) 12 NCLT CK 0004
In the National Company Law Appellate Tribunal
Case No : (IB) No. 1248(PB) Of 2018

Shinoj Koshy

APPELLANT

Vs

Granite Gate Properties Pvt. Ltd.

RESPONDENT

Date of Decision : 09-12-2019

Acts Referred:

Insolvency And Bankruptcy Code, 2016 — Section 12, 12(3), 60(5)

Citation : (2019) 12 NCLT CK 0004

Hon'ble Judges : Dr. Deepti Mukesh, J; Santanu Kumar Mohapatra, Member (Technical)

Bench : Division Bench

Advocate : Rachit Mittal, Ankit Khera, Tanvi Aggarwal, Nitin Mishra, Mitali Gupta, Abhishek Anand, Viren Sharma, Manoj Kumar Garg, Siddharth, B.L. Satija, Rakesh Kumar, Sahil Dhawan

Final Decision : Disposed Of

Judgement

CA-2762(PB)/2019

1. The present application is filed by Resolution Professional of Granite Gate Properties Pvt. Ltd. under Section 60(5) of the Insolvency & Bankruptcy Code, 2016 seeking exclusion of time period of 202 days from the total duration of 330 days for completion of the Corporate Insolvency Resolution process (CIRP) of the Corporate Debtor which is coming to an end on 09.12.2019.

2. In the present case the CIRP against the Corporate Debtor was initiated on 10.01.2019 and 330 days shall expire on 09.12.2019. It is submitted that resolution plan in respect of corporate debtor has been received which is required to be processed in accordance with the provisions of law. Accordingly, the CoC with majority of 97% voting share in its 12th CoC meeting has approved the resolution for exclusion of time and has authorized the applicant to file the present application.

3. It is contended that grave harm will be caused to the stakeholders of the

corporate debtor if liquidation order is passed on account of expiry of 330 days of Corporate Insolvency Resolution Process period. The same would result in massive deterioration of value of assets of the Corporate Debtor which goes against the object of the Insolvency & Bankruptcy Code contrary to the intends to maximize the value of assets of the corporate debtor. In the interest of 3800 homebuyers it is prayed to exclude 202 days from the Insolvency Resolution Process Period so as to successfully conclude the Insolvency Resolution of the Corporate Debtor.

4. The maximum period which the CoC and Resolution Professional can avail for result, being CIRP is 330 days in terms of Section 12(3) of the Insolvency & Bankruptcy Code.

5. Hon'ble the Supreme Court judgment passed in the matter of Committee of Creditors of Essar Steel India Limited through Authorised. Signatory v. Satish Kumar Gupta & Ors. (Civil Appeal No. 8766-67 of 2019 decided on 15.11.2019) wherein Hon'ble Supreme Court has struck down the word "mandatorily" provided under Section 12 of the Insolvency & Bankruptcy Code and has clarified that in exceptional cases Tribunal can extend the Insolvency Resolution Period beyond 330 days.

6. After considering the submissions and in the interest of justice 60 days period is extended beyond the period of 330 days for completion of the Insolvency Resolution Process so as to put the corporate debtor back on its feet instead of sending the corporate debtor into liquidation.

7. Accordingly, the application is allowed by extending 60 days from expiry of 330 days of Insolvency Resolution Period.

8. CA-2762(PB)/2019 stands disposed of.