NATIONAL COMPANY LAW TRIBUNAL
INDORE BENCH
COURT NO. 1

ITEM No.202
IA/298(MP)2026
in
C.P.(IB)/56(MP)2021

Order under Section 60(5) r.w. Rule 11

IN THE MATTER OF:

Nishkarsh Kumar ....**Applicant**
V/s
Chaya Gupta & Ors ....**Respondent**

Coram:

Hon'ble Shri Brajendra Mani Tripathi, Member (J)
Hon'ble Shri Man Mohan Gupta Member (T)

PRONOUNCEMENT OF ORDER
Delivered on 13/07/2026

The case is fixed for pronouncement of the order.

The order is pronounced in open Court *vide* separate sheet.

Sd/- Sd/-

MAN MOHAN GUPTA
MEMBER (TECHNICAL)

BRAJENDRA MANI TRIPATHI
MEMBER (JUDICIAL)

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THE NATIONAL COMPANY LAW TRIBUNAL

INDORE BENCH

IA No. 298 OF 2026
in
CP(IB) 56 of 2021

(An Application filed under Section 60(5) of the Insolvency and Bankruptcy Code, 2016, read with Rule 11 of the National Company Law Tribunal Rules, 2016.)

IN THE MATTER OF:

1. **Nishkarsh Kumar**
   S/o Taranbeer Singh
   H. no. 001, Sadhana Enclave,
   Bagmugaliya, Huzur,
   Bhopal (M.P.) – 462026 …Applicants

Versus

1. **Mrs. Chayya Gupta**
   RP of JSM Devcons lndia Pvt. Ltd.
   911, Apollo Premier
   Near Vijay Nagar Sq.,
   Indore-452010

2. **Monitoring Committee**
   JSM Devcon Private Limited
   306, Orbit Mall, Scheme No. 54, A.B.
   Road, Indore-M.P.-452001

3. **M/s. Devvrat Developers Private Limited (SRA)**
   101, 1st floor, DOI Bin Shir
   Janmbhumi Marg, Fort,
   Mumbai-400001

4. **JSM Devcon Private Limited**
Pinnacle 'D' Dreams, Gram
Pipliyakumar, Tehsil-Nipaniya,
Indore-452001 … Respondents

C O R A M:

HON'BLE SH. BRAJENDRA MANI TRIPATHI, MEMBER (J)

HON'BLE SH. MAN MOHAN GUPTA, MEMBER (T)

Order Pronounced on 13.07.2026

Appearance:

For the Applicant : Mr. Shantnu Chourasia, Adv

For the Respondent/RP : Mr. Keshav Khandelwal, Adv

O R D E R

1. The present Application, filed dated 11.03.2026, under Section 60(5) of the Insolvency and Bankruptcy Code 2016 read with Rule 11 of the National Company Law Tribunal Rules 2016, by Nishkarsh Kumar, Homebuyer (the 'Applicant') against Ms. Chaya Gupta (the 'Respondent No. 1'), Erstwhile Resolution Professional (RP) of M/s JSM Devcons Private Limited (the 'Corporate Debtor'), the Monitoring Committee of the Corporate Debtor (the 'Respondent No. 2') and M/s Devvrat Developers Private Limited ('Successful Resolution Applicant'/Respondent No. 3), for seeking directions/reliefs as given below:

   a) Allow the present Application;

b) *Recall and set aside the order dated 05.04.2024 passed by this Hon'ble Tribunal approving the Resolution Plan;*

c) *Maintain status quo, or in the alternative, stay the sale of the Unit till final adjudication of the present case;*

d) *Direct registry of the Unit in the name of the Applicant;*

e) *Stay implementation of the Resolution Plan;*

f) *Invite fresh resolution plans, or in the alternative, initiate liquidation of the Corporate Debtor; and*

g) *Any other or further appropriate relief or direction as this Hon'ble Tribunal may deem fit in the facts and circumstances of the case.*

The Applicant's case in brief is:

a. The Applicant submits that he is the owner/allottee of Unit No. 1502, Premium Tower 8, in the project "Pinnacle 'D' Dreams" situated at Gram Pipliyakumar, Tehsil Nipaniya, Indore, M.P., developed by the Corporate Debtor. It is submitted that the Applicant has paid Rs. 19,13,043/-, i.e., 100% of the sale consideration, evidenced by the allotment letter, payment receipts, bank statements and the ledger account of the Corporate Debtor, annexed as Annexures 3, 4 and 5.

b. It is further submitted that the Applicant has been residing outside Indore, at Bhopal and thereafter in Lucknow/Kanpur (Uttar Pradesh), on account of financial and family constraints, and consequently could not become aware of the initiation of CIRP against the Corporate Debtor. It is submitted that the Applicant became aware of the CIRP and the subsequent approval of the Resolution Plan dated 05.04.2024 only upon a recent visit to the Unit/Indore.

c. The Applicant submits that he had earlier approached the Hon'ble High Court of Madhya Pradesh in a Public Interest Litigation being W.P. No. 15443/2018, pursuant to which an Investigation Committee headed by Hon'ble Mr. Justice (Retd.) Deepak Verma, former Judge of the Hon'ble Supreme Court of India, was constituted, and that the Applicant had submitted a claim form before the said Committee, annexed as Annexures 6, 7 and 8. It is submitted that the Resolution Professional, having access to the said proceedings and to the books of account of the Corporate Debtor, ought to have taken note of and included the Applicant's claim/details in the Information Memorandum and the Resolution Plan.

d. The Applicant contends that the Resolution Plan approved vide order dated 05.04.2024 is vitiated by suppression of material facts and non-compliance of several provisions of the Code and the CIRP Regulations, including alleged undervaluation of assets (the liquidation value having been shown as 'Nil', with discrepancies in the valuation of land and trade receivables valued at Rs. 34.74 crore, as also noted at paragraphs 7 and 7.1 of the order dated 05.04.2024 itself and as questioned by Edelweiss Asset Reconstruction Company Ltd. and an independent expert, Er. Prakash Agrawal), and alleged non-compliance of Regulations

6(2), 13, 16A, 35(2), 36, 36B, 38(2)(c) and 39 of the CIRP Regulations, 2016 and Sections 21, 25 and 30 of the Code.

e. The Applicant further contends that the Resolution Plan discriminates against operational and unsecured financial creditors, in violation of Section 30(2)(b) of the Code, in that operational creditors are stated to receive only Rs. 1,50,000/- (approximately 0.09% of their admitted claims of Rs. 16.64 crore) and unsecured financial creditors only 2%, as against a materially higher recovery to the secured creditor, Edelweiss Asset Reconstruction Company Ltd., relying on the judgment of the Hon'ble Supreme Court in Swiss Ribbons (P) Ltd. v. Union of India, (2019) 4 SCC 17.

f. The Applicant also contends that the Resolution Plan fails to disclose the source and mechanism of funding to be infused by the Successful Resolution Applicant, does not contain enforceable safeguards for non-performance as mandated under Regulation 38(2)(c) of the CIRP Regulations, grants excessive reliefs/waivers in favour of the Successful Resolution Applicant, transfers the benefit of avoidance/PUFE recoveries under Section 66 of the Code to the Successful Resolution Applicant instead of the creditors, and does not disclose compliance with Section 29A of the Code or the alleged prior connection of the Successful Resolution Applicant with the Corporate Debtor/its erstwhile promoters, relying upon Ebix Singapore (P) Ltd. v. Educomp

Solutions Ltd. (CoC), (2022) 2 SCC 401 and Phoenix ARC (P) Ltd. v. Spade Financial Services Ltd., (2021) 3 SCC 475.

g. The Applicant places reliance on the judgment of the Hon'ble NCLAT in Puneet Kaur v. K V Developers Pvt. Ltd. [Company Appeal (AT) (Insolvency) No. 390 of 2022], for the proposition that claims of homebuyers reflected in the Corporate Debtor's records ought to be included in the Information Memorandum and dealt with by way of an addendum to the Resolution Plan, and on the judgment of the Hon'ble Supreme Court in Greater Noida Industrial Development Authority v. Prabhjit Singh Soni & Anr. [(2024) 6 SCC 767], for the proposition that the Tribunal possesses inherent/ancillary power under Section 60(5) of the Code read with Rule 11 of the NCLT Rules to recall its own order to secure the ends of justice. Reliance is further placed on Ghanshyam Mishra & Sons (P) Ltd. v. Edelweiss Asset Reconstruction Co. Ltd., (2021) 9 SCC 657, for the submission that extinguishment of un-admitted claims upon approval of a Resolution Plan does not apply where information has been intentionally suppressed.

h. In light of the above, the Applicant submits that the order dated 05.04.2024 approving the Resolution Plan deserves to be recalled and set aside, and seeks directions for registry of the Unit in his favour or, in the alternative, for maintaining status quo/staying the sale of the Unit and the implementation of the Resolution Plan pending adjudication, and for inviting fresh resolution plans or initiating liquidation of the Corporate Debtor.

3. The Submissions of Respondent No. 3/SRA:

a. The Respondent No. 3/SRA chose not to file any reply. Learned counsel appearing for the Respondent-SRA, Mr. Keshav Khandelwal, appeared before this Adjudicating Authority on 14.05.2026 and the parties were heard on maintainability.

b. The learned counsel for the Respondent has submitted that the present application is not maintainable as the issues sought to be raised amount to nothing more than a sudden popping up of hydra heads, as has been held by the Hon'ble Apex Court in similar circumstances.

c. It is further submitted that on 05.04.2024 the Resolution Plan has already been approved by this Adjudicating Authority and therefore, the Corporate Insolvency Resolution Process stands concluded.

d. The Respondent submits that the Applicant had never filed his claim during the entire CIRP process. The Applicant has now filed his application after several years from the last date of submission of claim and that too after the Resolution Plan was approved by the Adjudicating Authority. The list of claimants in the class of FC being allottees/flat buyers as admitted by RP and covered in the approved Resolution Plan comprises of 351 home buyers and hence any hindrance caused by the Applicant is not only untenable and bad in law, but also adversely affects the legitimate interests of those allottees who were vigilant enough to submit and pursue their claims in time.

e. The SRA submits that in the Latin maxim "Vigilantibus Non dormentibus jura subveniunt" which means that the law comes to the assistance of those who are vigilant about their rights and not those who sleep on their rights. Hence, the present application is hopelessly time barred and is not maintainable.

f. The Respondent SRA has submitted that one more homebuyer, namely Anupam Jain had challenged the impugned order dated 11.11.2024 passed by this Bench in Interlocutory Application No. 393 of 2024 in CP (IB) No. 56 of 2021 wherein this Bench had dismissed the applicant's application seeking recognition as a financial creditor. The dispute arose out of the applicant's claim over a residential unit for which he relied upon an allotment letter, NOC possession letter, and a duly registered agreement to sale.

b) The Appellate Tribunal has observed that the documents relied upon by the applicant were inconsistent and unreliable. Accordingly, the claim had rightly been rejected by the Resolution Professional and since the Resolution Plan had already attained finality, no fresh or belated claims could be entertained. The Tribunal further observed that the applicant had approached the Tribunal with misleading and unconscionable assertions, and therefore the challenge came to be dismissed.

4. Observation and Analysis:

a) At the outset it is observed that both the Applicants and Respondent No. 3, the Successful Resolution Applicant, appeared before this Adjudicating Authority through their respective learned counsel and were heard at length and matter was reserved on the question of maintainability on 14.05.2026. The learned counsel for the SRA has contended that the present application is not maintainable in law and the issues sought to be raised by the Applicants are nothing but an attempt to reopen a concluded insolvency process. It is submitted that such belated claims amount to a sudden emergence of new claims after the completion of the Corporate Insolvency Resolution Process which has been disapproved by the Hon'ble Supreme Court in several decisions.

b) The Respondent SRA has further submitted that the Resolution Plan in respect of the Corporate Debtor was duly approved by this Adjudicating Authority on 05.04.2024 and therefore the Corporate Insolvency Resolution Process has attained finality. It is the case of the Respondent that the Applicant never filed any claim during the entire CIRP despite the public announcement inviting claims from all stakeholders. It has been contended that the Applicant has approached this Tribunal after a considerable lapse of time and only after the approval of the Resolution Plan. According to the Respondent such belated intervention would disrupt the implementation of the approved Resolution Plan and would adversely affect the rights of those homebuyers who had diligently filed their claims within the stipulated period.

c) The RP under Section 18(1)(b) of the IBC, 2016 is obliged to "receive and collate all the claims submitted by creditors". While the term "receive" implies a passive role dependent on filings, the term "collate" suggests an active duty to verify and arrange claims. Further, Regulation 36(2) of the IBBI (Insolvency Resolution Process for Corporate Persons) Regulations, 2016, prescribes the contents of the Information Memorandum. The IM must contain "details of all material litigation and crucially, a list of creditors and liabilities".

d) The Respondent has submitted that the list of claimants in the class of financial creditors being allottees or homebuyers was duly verified and admitted by the Resolution Professional during the CIRP and the same formed part of the approved Resolution Plan. It is stated that the approved Resolution Plan already covers the claims of 351 homebuyers and any attempt to entertain new claims at this stage would cause serious prejudice to those stakeholders who had participated in the CIRP in accordance with law.

e) This Adjudicating Authority notes that the Applicant has not filed any claim before the Resolution Professional during the CIRP despite public announcements being made in accordance with the provisions of the Insolvency and Bankruptcy Code. The scheme of the Code requires all creditors, including homebuyers, to submit their claims within the stipulated timeline so that such claims can be duly verified and considered during the resolution process.

f) The Applicant has contended that he was unaware of the CIRP proceedings and therefore could not file his claim in time. However, upon perusal of the records it has been observed that the Form-G was published for 3 times during the entire CIRP (by the 2 Resolution Professionals collectively), still the Applicant has wilfully opted not to submit a claim with the RP. Hence, the Applicant himself wilfully ignored and lost sight of the CIRP, cannot come today at such a belated stage and disturb the viability and the very basis of calculation of the Resolution Plan.

g) It is observed that the Applicant relies on the judgment of the NCLAT in Puneet Kaur v. KV Developers Pvt. Ltd. [Company Appeal (AT) (Insolvency) No. 390 of 2022] to argue that this duty extends to liabilities reflected in the books of accounts, even if no formal claim is filed and further relies on the Greater Noida Industrial Development Authority v. Prabhjit Singh Soni & Anr. [(2024) 6 SCC 767], wherein the Supreme Court allowed the recall even though the claimant (GNIDA) had not filed the claim in the correct form because their status as a financial creditor was evident from the nature of the lease and the records.

h) However, a clear distinction exists between the facts of said cases and the present matter. In the cited judgments, the resolution plan had merely been approved by the Committee of Creditors and had not yet received approval from the Adjudicating Authority. In contrast, in the present case, the resolution plan has already been approved by the Adjudicating Authority vide order dated 05.04.2024. Once a resolution plan is approved by the Adjudicating Authority under Section 31 of the Insolvency and Bankruptcy Code, 2016, it becomes binding on all stakeholders. Despite this settled position, the Applicant has approached the Adjudicating Authority seeking to challenge the said resolution plan after a lapse of approximately 1 year and 11 months (23 months) from the date of its approval. Such a belated challenge to a duly approved resolution plan cannot be entertained, as it would defeat the finality attached to the resolution process and disturb the implementation of the plan.

i) Further, it is a settled position of law that the insolvency process is conducted in a public and transparent manner through statutory public announcements and it is the responsibility of the stakeholders to remain vigilant regarding their rights and claims.

j) The learned counsel for the Respondent has also relied upon the well settled legal principle embodied in the Latin maxim “Vigilantibus Non Dormientibus Jura Subveniunt” which signifies that the law assists those who are vigilant about their rights and not those who sleep over them. It is argued that the Applicant remained silent during the CIRP and therefore he cannot be permitted to raise claims after the approval of the Resolution Plan. According to the Respondent the present application is hopelessly barred by delay and is therefore not maintainable.

k) This Adjudicating Authority further takes note of the submission of the Respondent that a similar issue had arisen in the case of another homebuyer, namely Anupam Jain, who had challenged the order dated 11.11.2024 passed in I.A. No. 393 of 2024 before the Hon'ble National Company Law Appellate Tribunal. In the said matter, the Appellate Tribunal had dismissed the appeal with following observation:

"42. On the issue of the finality of the resolution plan we note that the Resolution Plan was approved by the NCLT on 05.04.2024, and the statutory time period for challenge under Section 61(2) of the IBC expired long before the present application was filed on 04.09.2024. We also note that from the materials placed on record that the Appellant's name being shown in the list of claimants with "0% claim admitted" does not amount to admission, but rather indicates that the Resolution Professional had rejected the claim after due verification. In Essar Steel (supra) and RPS Infrastructure (supra), the Hon'ble Supreme Court held that claims not admitted prior to approval of the Resolution Plan cannot be reopened subsequently, as it would disturb the finality of the resolution process and the commercial wisdom of the CoC.

44. Having considered the pleadings, submissions, and evidence on record, we are satisfied that:

- *The Appellant has failed to prove any valid financial disbursement;*
- *The claim was rightly rejected by the Resolution Professional;*
- *The Resolution Plan having attained finality, no fresh or belated claims can now be entertained; and*
- *The Appellant has approached this Tribunal with inconsistent and misleading assertions."*

The Appellate Tribunal observed that entertaining such belated claims after the approval of the Resolution Plan would disturb the finality of the resolution process and adversely affect the interests of other stakeholders.

l) The Hon'ble Supreme Court in Committee of Creditors of Essar Steel vs Satish Kumar Gupta, held that claims not admitted prior to approval of the Resolution Plan cannot be reopened subsequently, as it would disturb the finality of the resolution process and the commercial wisdom of the CoC. Further, the Hon'ble Supreme Court in RPS Infrastructure Limited vs. Mukul Kumar & Anr. [(2023) 8 SCC 1] reiterated that all claims must be crystallized during the CIRP period and that no "hydra-headed claims" can be entertained post approval of a Resolution Plan.

m) This Adjudicating Authority is also guided by the principle laid down by the Hon'ble Supreme Court in Ghanshyam Mishra and Sons Pvt. Ltd. v. Edelweiss Asset Reconstruction Company Ltd. which interpreted Section 31(1) of the IBC, 2016 to mean that once a plan is approved, it binds all stakeholders, including those who did not vote or whose claims were not considered and argues that the principle of "Clean Slate" is absolute. The SRA contends that the Puneet Kaur judgement cannot override the Constitution Bench of the Supreme Court to deal with the defective Information Memorandum situation and emphasises that once the Adjudicating Authority places its seal of approval on the plan (as done on 05.04.2024 for JSM Devcons), the door is shut. The

Applicant wrongly interpreted the Puneet Kaur judgement as it also relies on the Ghanshyam Mishra judgment and concluded that claims extinguish after approval of Adjudicating Authority.

n) Further it is pertinent to note that the CIRP is a "time-bound process." Section 12 of the IBC, 2016 mandates a 330-day outer limit. In the present case, the Applicant filed his claim after a delay of several years. To condone such an exorbitant delay, especially when the plan has been approved by the CoC and the Adjudicating Authority, would violate the sanctity of the process.

o) Having considered the rival submissions, it is observed that the material placed on record clearly indicates that the CIRP against the Corporate Debtor was initiated in CP (IB) No. 56 of 2021 under Section 7 of the Insolvency and Bankruptcy Code 2016 and the same was admitted by this Adjudicating Authority vide order dated 17.03.2022. Pursuant to the admission of the petition, Mr. Sanjay Kumar Singh was appointed as the Interim Resolution Professional who made a public announcement on 31.03.2022 in accordance with the prescribed Form A inviting claims from all stakeholders of the Corporate Debtor. The last date for submission of claims was fixed as 14.04.2022. Subsequently the said IRP was replaced by Ms. Chaya Gupta as the Resolution Professional vide order dated 03.11.2022 who thereafter conducted the CIRP in accordance with the provisions of the Code.

p) It is further observed that the Resolution Plan submitted by Respondent No. 3, namely Devvrat Developers Pvt. Ltd., was duly considered and approved by the Committee of Creditors and thereafter the Resolution Professional filed an application seeking approval of the Resolution Plan before this Adjudicating Authority. Upon due consideration the Resolution Plan came to be approved by this Tribunal vide order dated 05.04.2024. Consequently, the CIRP of the Corporate Debtor stood concluded and the approved Resolution Plan attained binding force in terms of Section 31 of the Insolvency and Bankruptcy Code 2016.

q) From the material available on record it is an admitted position that the Applicant did not submit any claim before the Interim Resolution Professional or the Resolution Professional within the time prescribed under the CIRP Regulations. The Applicant has approached this Tribunal only after the approval of the Resolution Plan seeking recognition of his claim as a homebuyer. The effect of approval of a Resolution Plan has been consistently interpreted by the Hon'ble Supreme Court to mean that all claims which are not part of the approved Resolution Plan stand extinguished and no fresh or undecided claims can thereafter be entertained.

r) The judgements cited by the Applicant do not support the case/cause of the Applicant and allow us to come to a conclusion that no claim is submitted to the RP during CIRP. Therefore, the Applicant's attempt to revive his claim post-approval of the plan by the Adjudicating Authority is legally untenable and contrary to settled jurisprudence.

s) The scheme of the Insolvency and Bankruptcy Code is based on the principle of finality and certainty in the resolution process. Allowing claims to be raised after the approval of a Resolution Plan would defeat the very objective of the Code and would render the implementation of the Resolution Plan uncertain and unworkable. The Successful Resolution Applicant takes over the Corporate Debtor on the basis of the liabilities crystallized in the approved Resolution Plan and therefore permitting additional claims at a later stage would fundamentally alter the commercial framework of the plan.

t) In view of the above discussion this Adjudicating Authority is of the considered view that the present application seeking recognition of the Applicant's claim after the conclusion of the CIRP cannot be entertained. The Applicant failed to submit his claim during the CIRP despite the public announcement inviting claims and has approached this Tribunal only after the Resolution Plan has been approved and implemented. Such belated claims cannot be permitted as they would undermine the finality attached to an approved Resolution Plan under the Insolvency and Bankruptcy Code.

u) Accordingly, it is observed that once the Resolution Plan has been approved by the Adjudicating Authority all claims which were not submitted or considered during the CIRP stand extinguished and no fresh claim can be adjudicated thereafter. Therefore, the present application is liable to be rejected.

v) Therefore, I.A. No. 298 of 2026 is dismissed in limine being not maintainable and disposed of.

Sd/- Sd/-

MAN MOHAN GUPTA
(MEMBER TECHNICAL)

BRAJENDRA MANI TRIPATHI
(MEMBER JUDICIAL)

Vanshika-LRA