NATIONAL COMPANY LAW APPELLATE TRIBUNAL
AT CHENNAI

(APPELLATE JURISDICTION)

Company Appeal (AT) (CH) (Ins) No. 598/2026
IA Nos. 1694, 1695, 1696 & 1697/2026

In the matter of:

Muhammed Aslam MA **…Appellant**

Vs

Sreenivasan PR
Liquidator of Asten Realtors Pvt Ltd
(In Liquidation) & 5 Ors. **...Respondents**

Present :

For Appellant : Mr. PH Arvindh Pandian, Senior Advocate
For Mr. Niveditha Narayanan, Mr. KR Ashwin Kumar &
Mr. Avinash Krishnan Ravi, Advocates

For Respondents : Mr. Vinod PV, Advocate for R1
Mr. Sreenivasan PR, Liquidator in person
Mr. TK Bhaskar, Advocate for R2-R5

ORDER
(Hybrid Mode)

06.11.2026: This appeal is preferred challenging an order of the learned Adjudicating Authority in IA(IBC)/416/KOB/2026 in CP(IBC)/54/KOB/2022.

2. The learned senior counsel for the appellant would submit that during the liquidation process of the corporate debtor, appellant participated in the e-auction and was declared as a successful bidder. LOI was issued to him, and the EMD was also adjusted against the sale consideration. While so, the 4th respondent and the 5th respondent in this appeal had moved the Hon'ble High Court of Kerala in W.P.(C) No. 26092 of 2025 and obtained the order of stay. Therefore, the

appellant could not make further payments, it is under an obligation to pay.

3. Be that as it may, the 2nd & 3rd respondents herein have taken out IA(IBC)/123/KOB/2026 before the learned Adjudicating Authority inter alia seeking the liquidator to conduct the sale of the said asset to them through private sale in terms of Regulation 33(2) in IBBI (Liquidation Process) Regulations, 2016. Regulation 33(2) requires that prior permission should be obtained by the liquidator before going for private sale, for which liquidator filed IA (IBC) 416/KoB/2026 seeking permission to sell the property by private sale. The permission as sought for was granted. And when the appellant intends to participate in IA(IBC)/416/KOB/2026 and made a submission to the learned Adjudicating Authority about the same, that came to be rejected.

4. Mr. PV Vinod takes notice for 1st respondent/liquidator. Mr. TK Bhaskar takes notice for Respondents No. 2 to 5.

5. The learned counsel for the respondents submitted that it is true the Hon'ble High Court of Kerala has stayed the matter as referred to by the learned senior counsel for the appellant. However, the other relevant facts which are necessary in the context are:

a) The development project involved in this case involves construction of 12 apartments. All the allottees have made certain advances at the time of allotment.

b) While things thus stood 2nd & 3rd respondents, two of the home

buyers approached the learned NCLT with IA(IBC)/123/KOB/2026 and with the prayer not to confirm the auction sale of the appellant but also to direct private sale in their name.

6. On this application, the learned Adjudicating Authority required the liquidator to elicit the view of the CoC. Accordingly, CoC met. In the view of the CoC, the CoC would now resolve:

a) Inasmuch as the terms of auction conditions provide for cancellation of auction at any time and inasmuch as the appellant has no vested right in the property, it chose to cancel the auction. It has also undertaken to return the EMD money with interest to the appellant

b) W.P.(C) No. 26092 of 2025 filed before the Hon'ble High Court of Kerala was also directed to be withdrawn. Based on the same, the 4th respondent withdrew W.P.(C) No. 26092 of 2025.

c) The liquidator was directed to go for a private sale with the permission of the learned NCLT. Accordingly, the liquidator would file IA(IBC)/416/KOB/2026 for permission of the learned Adjudicating Authority to sell it to them.

7. This is an order which is passed under IA(IBC)/416/KOB/2026 is a subject matter of the present appeal. The learned counsel for the respondents would submit that not only was the land sold to the consortium of allottees who

have already acquired a vested interest in the property, but the same has been confirmed and the sale certificate has also been issued to them.

8. The property has been sold for the very price which the auction purchaser has offered and confirmed.

9. Vis-à-vis the interim order, which the appellant has sought, the learned counsel submits that they are not being served with the papers and that he will advice his clients not to create any 3rd party interest. The said statement is recorded.

10. The learned counsel for the respondent added that if the sale goes through under Section 53, the home buyers are not likely to obtain anything.

11. Date of final hearing is fixed on **23.11.2026** immediately after admission**.** Both sides submit that they may not take more than 10 minutes, to facilitate an expeditious hearing, we require both sides to make a pointed notes of statements.

[Justice N. Seshasayee]
Member (Judicial)

[Jatindranath Swain]
Member (Technical)

SN/AA/MS/AK