

NATIONAL COMPANY LAW APPELLATE TRIBUNAL
PRINCIPAL BENCH: NEW DELHI

I.A. No. 676 of 2026, 1340 of 2023

in

Comp. App. (AT) (Ins) No. 1249 of 2019 & I.A. No. 4847 of 2022

IN THE MATTER OF:

Sanjeev Abrol

..Appellant

Versus

Rahul Singh & Ors.

..Respondent

Present:

For Appellant	:	Mr. Harsh Tikoo & Mr. Jitendra Singh, Advocates for I.A. No. 1340 of 2023 Mr. Rachit Mittal & Ms. Anuradha Sharma, Advocates
For Respondent	:	Mr. Arpit Dwivedi, Advocate for IRP

O R D E R
(Hybrid Mode)

IA No. 676 of 2026

Instant IA No. 676 of 2026 has been moved by the Applicant in
Company Appeal (AT) (Ins) No. 1249 of 2019 with the following prayers: -

*“a. Permit the Appellant to withdraw CA (AT) (Ins) No. 1249
of 2019 as having become infructuous;
b. Dispose of the present appeal as having become
infructuous; and
c. Pass such other or further order(s) as this Hon’ble
Appellate Tribunal may deem fit and proper in the interest
of justice”.*

2. Learned counsel for the appellant submits that the appellant has moved this withdrawal application to withdraw the appeal under the directions given by this Appellate Tribunal, on the ground that the appellant, who is the suspended director of the corporate debtor (CD), has

filed this appeal with the prayer to set aside the impugned order passed by the Ld. Adjudicating Authority by which the Application moved under Section 7 of the Insolvency and Bankruptcy Code (IBC) was allowed and the process of insolvency was initiated against the Appellant.

3. It is further submitted that the appellant has entered into a settlement with the creditor, on the application of which the insolvency process has commenced and on the basis of the settlement, the petition filed by the financial creditor being CP(IB) No. 355 of 2019, was dismissed by Ld. Adjudicating Authority vide order dated 3rd January 2022.

4. It is further submitted that on 2nd February 2022, some homebuyers have challenged the aforesaid order of withdrawal passed by the Ld. Adjudicating Authority by filing Company Appeal (AT) (Ins) No. 130 of 2022 and vide order dated 16th February 2022, this Appellate Tribunal has stayed the Order dated 3rd January 2022 passed by the Ld. Adjudicating Authority, however, the Company Appeal (AT) (Ins) No. 130 of 2022 was subsequently withdrawn by the Appellant and was dismissed as withdrawn on 12.05.2022.

5. It is further submitted that the order dated 3rd January 2022, whereby the petition filed by the financial creditor was dismissed as withdrawn, was also challenged by the Active Valley Square Welfare Association before this Appellate Tribunal by filing Company Appeal (AT) (Ins) No. 210 of 2022 which is still pending before this Appellate Tribunal for disposal.

6. It is vehemently submitted that, in view of the dismissal of the underlying petition filed by the financial creditor under Section 7 of the

Code by the Ld. Adjudicating Authority and when the same has also been acted upon, the very foundation of the instant appeal whereby the order of initiation of CIRP was challenged no longer survives.

7. It is further submitted that the Appellant, on many occasions, has drawn the attention of this Appellate Tribunal towards the fact that, in view of the aforesaid subsequent developments, the appeal has become infructuous however, this Appellate Tribunal, taking a broader and comprehensive view of the issue involved, in order to effectively appreciate the factual position, was pleased to appoint a Local Commissioner for inspection of the project, thrice and this exercise has been taken without prejudice to the rights and contentions of the parties.

8. It is further submitted that in the absence of any specific provision for withdrawal of the appeal, the appellant is requesting to invoke Rule 11 of the National Company Law Appellate Tribunal Rules, 2016. In this regard, the reliance has been placed on **Kalyan Singh vs Rohm Ors. ILR (1901) 23 All 130 and Kanhaiya Lal vs Pratab Chand (1930) SCC OnLine All 401.**

9. It is further submitted that the reverse CIRP could not survive in the absence of any insolvency process pending before Ld. Adjudicating Authority, as the CIRP proceedings pending before the Ld. Adjudicating Authority have already been closed. In this regard, reliance has been placed on **Flat Buyers Association, Winter Hills 77, Gurgaon vs. Umang Real Tech Pvt. Ltd. and others, 2020 SCC Online NCLAT 1199.**

10. It is further submitted that this Appellate Tribunal by order dated 14th November 2019, passed in **Company Appeal (AT)(Ins) No. 1244 of 2019**, titled as **Shalini Singhal and others vs. Rahul Singh and others** directed

the RP not to constitute committee of creditors in this case and not to release any publication if the same has not been released and in compliance with the same, no COC was constituted by the RP in the aforesaid insolvency process and therefore, in the absence of any verification of the claims by the resolution professional, no party could be designated as creditors and further the IRP of the CD has also become Functus Officio.

11. It is further submitted that the welfare association is not having any locus to participate in these proceedings or to file an appeal, as has been held in **Elegna Co-operative Housing and Commercial Society Limited, Takshashila Heights India (P) Ltd. vs. Edelweiss Asset Reconstruction Co. Ltd. and Anr. 2026 SCC Online SC 82.**

12. It is further submitted that the instant appeal was filed only to challenge the CIRP initiation order dated 5th November 2019 and, subsequent to the execution of the settlement agreement dated 11th October 2021 and by the dismissal of the petition filed by the financial creditor by the Ld. Adjudicating Authority the very basis of the instant appeal no longer survives and in view of the aforesaid facts and circumstances, the instant appeal be permitted to be withdrawn, as the same has become infructuous.

13. Ld. Counsel for the IRP however submits as under:

- The withdrawal application is based on suppression of material facts and is an abuse of the judicial process.
- The Appellant cannot seek withdrawal solely on the basis of a private settlement with the original Section 7 Financial Creditors, as the CIRP has become a proceeding in rem affecting all stakeholders.

- The NCLAT has been conducting a Reverse CIRP since 13.03.2020, and the Appellant has repeatedly directed by Appellate Tribunal to complete the project.
- The project remains incomplete despite more than six years having elapsed, as confirmed by successive Court Commissioner reports.
- The Appellant is attempting to evade its obligations under the Reverse CIRP after failing to honour its undertakings.
- The Appellant has made misleading and false statements regarding the status of completion of the project.
- Withdrawal of the appeal before completion of the project would be contrary to the object and scheme of the IBC and would adversely affect the interests of the homebuyers and other stakeholders.
- The application should therefore be dismissed with exemplary costs, and the insolvency process should continue in accordance with law.

14. Ld. Counsel for the intending intervener has also opposed the application.

15. Having heard Ld. Counsel for the parties, it is reflected that there is no quarrel with the facts disclosed by the Appellant in its application moved for withdrawal of the instant appeal. However, there are certain facts which are required to be clarified and placed on record.

16. No doubt the instant appeal was filed by the suspended director of the CD, Mr. Sanjeev Abrol, challenging the order passed by the Ld. Adjudicating Authority whereby the process of insolvency was initiated against the

corporate debtor. However, on 4th December 2019, the appellant has given certain proposals for completion of the project, which has been recorded in the order sheet of date 4-12-2019. On the same day, the Respondents **Rahul Singh and others** were allowed to file an affidavit within a week. It is also recorded that the counsel for the allottees, instead of intervening, may file a one-page note giving the problems and making suggestions as to how resolution can be adopted to ensure quick and clean allotment of flats in favour of the allottees.

17. On 18th December 2019, the promoters had given the timeline for completing the project under the supervision of the Interim Resolution Professional (IRP). It was stated that the promoter will be just investing the money for keeping the company as a going concern, subject to release of dues by the allottees. It was also kept open for the allottees to deposit the rest of the amount on their own for early possession of their respective flats. In this background, this Appellate Tribunal recorded that, in this regard, a specific order is required to be passed and posted these appeals for 2nd January 2020 for passing a detailed order.

18. The record of the Appeal further reveals that on 2nd January 2020, discussion had taken place with Learned Counsels for the parties and Mr. Rudreshwar Singh, Learned Counsel appearing for the promoter was allowed time till 6th January 2020 to give fresh time frame for completion of the project, tower-wise.

19. On 3rd February 2020, this Appellate Tribunal recorded that it intends to pass certain order and proposal to find out amicable terms of settlement to ensure speedy possession of Flats /Apartments/Premises in favour of the

allottees under the supervision of the Interim Resolution Professional/Resolution Professional with the guidance of the Committee of Creditors of Allottees.

20. It is also reflected that on 13th March 2020, this Appellate Tribunal, after noting that the matter relates to flat owners /Allottees directed the IRP to call a meeting of the CoC, including the Allottees, to take a call on the question whether the matter can be resolved in the manner as settled in **Flat Buyers Association, Winter Hills, (supra) Company Appeal (AT) (Ins) No. 926 of 2019, and Rajesh Goyal vs. Babita Gupta and Others, Company Appeal (AT) (Ins) No. 1056 of 2019**. Direction was given to the IRP to call a meeting of the CoC, including the allottees, to take a call on the question whether the matter can be resolved in the manner as settled in the aforesaid two appeals, or by way of any other terms of settlement. If such decision is taken by more than 50% of allottees and 66% of CoC, the terms of settlement was required to be placed before this Appellate Tribunal. It was further clarified that in such meetings the promoters should be present to know the result of the voting but will not take part in the voting. However, they can give suggestions as to what amount may be infused by them as a financial creditor and not as a promoter. This order appears to have been assailed before the Hon'ble Supreme Court, and on this pretext, no effective further proceedings could take place before this appellate tribunal, for a long time.

21. It is also reflected that the IRP has filed a status report on 28/09/2021, which has been mentioned in the order dated 16/02/2022. It is recorded that, in terms of the order dated 13th March 2020, a meeting of

the CoC, including Allottees, was called on 26th July 2020 through video conferencing. The meeting was held for five long hours, wherein the settlement plan sent by the promoters and directors of the corporate debtors was discussed. The allottees in this meeting also requested to share their inputs through email after the meeting and that their input be considered as input for promoters. The promoter director also promised to consider all the inputs of the home buyers. On 10 August 2020, the IRP received an email from the promoter seeking an extension of time by 15 days to give a proposal in terms of the decision taken in the aforesaid meeting held on 26 July 2020. Thus, it is reflected that the promoters, directors of the CD, as well as the flat owner's/home buyers, were making an attempt to complete the project by helping each other.

22. It is further reflected that on 4th March 2022, direction was given to list the CA (AT) (Ins) No. 210 of 2022 along with CA (AT) (Ins) No. 1244 of 2019 And thereafter, CA (AT) (Ins) Nos. 1244 of 2019, 1249 of 2019, 130 of 2022, and 210 of 2022 were continuously listed as connected appeals before this Appellate Tribunal.

23. It is also pertinent to mention here that On 12th May 2022, the CA A(T) (Ins) No. 130 of 2022 was dismissed as withdrawn and on 7th September 2022, the Company Appeal (AT) (Ins) No. 1244 of 2019 filed by **Shalini Singhal and others** was dismissed for non-prosecution therefore, the CA (AT) (Ins) No. 1249 of 2019 and CA (AT) (Ins) No. 210 of 2022 remained on our board.

24. It is recorded in the order sheet of 15th May 2023 that the appellant has filed an affidavit stating that there are as many as seven towers under

construction, out of which the possession of Tower A and D have already been handed over and occupancy certificates have been received. In respect of Tower B, C, and E, the construction shall be completed by the month of July 2023 for the units which have been booked. Therefore, it was requested that the matter be posted in the first week of August 2023. The order sheet of date 5th January 2024, however, reflects that order sheet was corrected in terms that the Counsel for the Respondent No. 4 (builder) has clarified that on the last date he has made a statement in respect of Towers B, E, and F which has been wrongly recorded for Tower B, C, and E. It was submitted that the construction of Towers B, E, and F has been completed and the construction in Towers B, E, and F is still going on. In this background this Appellate Tribunal directed the parties to file their affidavits along with the latest photographs to show the current stage of the construction of towers B, E, and F.

25. On 6th February 2024, having noticed the divergent stand taken by the parties with regard to the stage of construction this Appellate Tribunal appointed Mr. Abhishek Anand, Advocate, as a court commissioner to submit a report with regard to the present status of construction of Towers B, E, and F. Mr. Abhishek Anand submitted his report on 5th March 2024. We again requested Mr. Abhishek Anand to revisit the project and submit a report regarding Tower B, E, and F, and about the entire project. Mr. Abhishek Anand appears to have submitted its report dated 31st August 2024, a copy of which was also provided to all the parties.

26. On 20th November 2025, this Appellate Tribunal considered the report of the commissioner appointed by this Appellate Tribunal, along with

photographs and directed the Respondent No. 4, the promoter, to submit an affidavit on the issue as to:

- how many flats have been given in the possession of the home buyers so far
- how many flats, apart from those which have already been given in the possession of the home buyers, are complete and ready for possession
- the details of those home buyers to whom the possession has been allegedly offered but they declined to possess the same
- the expected date of completion of the whole project, including how much money would be required to complete the project and what would be the source of funds required to complete the project
- all the details of completed flats, tower-wise

Mr. Abhishek Anand was also requested to revisit the project and submit a fresh report in this regard.

27. On 5th January 2026, Ld. Counsel for the Appellant submits that he be permitted to move an appropriate application for certain clarifications. We permitted him to move an appropriate application with an advance copy to Ld. Counsel for the parties.

28. On 16th February 2026, we were informed that an Application has been moved on behalf of the Appellant seeking permission to withdraw the appeal. We directed to list this application for disposal on 17th March 2026, permitting the parties to file any response to this application.

29. It is worth noticing that till this day, i.e., 16th February 2026, the following Appeals were connected and listed together.

- Company Appeal (AT) (Ins) No. 1249 of 2019, for the withdrawal of which Instant IA No. 676 of 2026 has been moved
- Company Appeal (AT) (Ins) No. 210 of 2022, wherein the order of withdrawal of the petition filed under Section 7 of the Court by the Financial Creditor is impugned
- Contempt Case No. 03 of 2024

30. On 7th May 2026, we, at the outset, have asked Ld. Counsel for the parties to give their consent to dispose of IA No. 676 of 2026, along with the CA (AT) (Ins) No. 210 of 2022 filed by the Association of Home Buyers against the order of withdrawal of petition passed by the Ld. Adjudicating Authority. However, it was on the insistence of Ld. Counsel for the applicant of IA No. 676 of 2026, we heard Ld. Counsel for the parties with regard to IA No. 676 of 2026.

31. We have requested the parties to give their consent for disposal of I.A. No. 676 of 2026 and CA (AT) (Ins) No. 210 of 2022 together, as one of the grounds which has been taken by the Applicant of I.A. No. 676 of 2026 in support of its application for withdrawal of the appeal, is that the Ld. Adjudicating Authority has dismissed the petition filed by the creditor/ financial creditor under Section 7 of the Code on the basis of settlement and when there is no CIRP proceedings pending before the Ld. Adjudicating Authority, the appeal has become infructuous. It was in our contemplation that the Association of Home Buyers has also filed CA (AT) (Ins) No. 210 of 2022 against the order whereby the Learned Adjudicating Authority has dismissed the petition filed by the creditor under Section 7 of the Code.

32. We reserved the orders so far as Instant IA No. 676 of 2026 and IA No.1340 of 2023 are concerned on 7th May 2026, in a hope and trust that in the meantime, the hearing in the CA (AT) (Ins) No. 210 of 2022 would also complete. We, in fact, heard Ld. Counsel for the Appellant and Respondent No. 4 and Respondent No. 1 on 20th May 2026 in CA (AT) (Ins) No. 210 of 2022 and listed the same on 26th May 2026, whereon no time was left due to the engagement in other cases, and the matter was listed on 9th July 2026, high up on the board. Now, the date 29.07.2026 has been fixed for rejoinder submissions of the Appellant in CA (AT) (Ins) No. 210 of 2022 for rejoinder submissions of Ld. Counsel for the Appellant.

33. Thus, in all probability, the arguments so far as CA (AT) (Ins) no. 210 of 2022 is concerned, would complete on the next date of listing.

34. We notice that in compliance with our order dated 13th March 2020, the parties have scheduled a meeting where certain deliberations were made, thereafter, it appears that with the coordination of the homebuyers and the promoters, the construction at the project was going on under the supervision of the IRP. Though no specific order with regard to the reverse CIRP has been passed by this appellate tribunal, it is evident that this appellate tribunal has taken the status of the project into consideration. For this purpose, we have also appointed a local commissioner and after considering the report of the local commissioner, certain directions were also given to the promoters.

35. We also notice that till 20th November 2025, on which date we had given certain directions to the Promoter Director, who was present personally before us, with regard to the status of the work done at the spot.

It was in the presence of the Promoter Director that Mr. Abhishek Anand has been appointed Court Commissioner for the purpose of visiting the project site and to prepare a comprehensive status report mentioning the progress of the work done vis-a-vis the earlier report submitted by the local commissioner in March 2024 and August 2024. No objection was raised by the Promoter Director/Appellant of CA (AT) (Ins) No. 1249 of 2019, and, in fact, on the next date, i.e. 2nd December 2025, it was informed by Ld. Counsel for the Respondent No. 4 (i.e. the promoter builder) in CA (AT) (Ins) No. 210 of 2022 that the compliances of directions would be completed within 3-4 days. On 5th December 2025, the report was submitted by the local commissioner, and the promoter director submitted that he has received a copy of the report only last night and sometime be granted to him for the purpose of perusing it. He also informed that he has filed an affidavit in pursuance of the previous order of this Appellate Tribunal. Thereafter, on 5th January 2026, permission has been sought by the Ld. Counsel for the Appellant to move an appropriate application for withdrawal of the appeal.

36. In our considered opinion, a considered decision is to be taken with regard to the withdrawal of appeal, in view of pendency of CA (AT) (Ins) No. 210 of 2022, filed by the Association of Home Buyers, challenging the order of withdrawal passed by the Ld. Adjudicating Authority. The CA (AT) (Ins) No. 1249 of 2019 and CA (AT) (Ins) No. 210 of 2022 were continuously listed before us as connected appeals and withdrawal of CA (AT) (Ins) No. 1249 of 2019 in our considered opinion, would have direct impact on the disposal of CA (AT) (Ins) No. 210 of 2022 as the withdrawal of Section 7 application by the Adjudicating Authority has been taken as one of the grounds in support

of IA No. 676 of 2026 filed by the Appellant in CA (AT) (Ins) No. 1249 of 2019. The withdrawal order itself has been challenged by the Association of Home Buyers by filing CA (AT) (Ins) No. 210 of 2022, wherein the hearing has almost completed and, in all probability, would be completed on the day on which it has been listed next.

37. In our considered view, it would be in the interest of justice that IA No. 676 of 2026 as well as CA (AT) (Ins) No. 210 of 2022 are disposed of simultaneously. Thus list the IA No. 676 of 2026 (moved in CA (AT) (Ins) No. 1249 of 2019), CA (AT) (Ins) No. 1249 of 2019 as well as CA (AT) (Ins) No. 210 of 2022 on **29.07.2026**.

IA No. 1340 of 2023

38. Instant Interlocutory application has been moved by Active Valley Square Welfare Association through its Secretary, with the prayer to allow their interlocutory application for imp-leading them as a party and to provide them an opportunity of being heard.

39. Learned Counsel for the Applicant Homebuyers Association submits that the applicant is representing the allottees of the residential project which was being developed by the CD. An appeal, being Company Appeal (AT) (Ins) No. 1244 of 2019, was filed by some of the allottees of the residential project, stating that the CIRP initiation order is causing undue hardship upon the allottees. The appellant, Mr. Sanjiv Abrol, has supported the appeal filed by the allottees. While hearing Company Appeal (AT) (Ins) No. 1249 of 2019, this Appellate Court had also directed the Promoted Director of the CD, Sanjeev Abrol, to file an affidavit stating a time frame for the completion of the residential project, particularly Tower A and D and

this interim direction dated 14th November 2019 was extended till next date of hearing.

40. It is further submitted that Applicant Active Valley Square Welfare Association, which is an association of 92 homebuyers, allottees, and financial creditors, intervened via instant application in Company Appeal (AT) (Ins) No. 1244/2019, seeking formation of COC and removal of the IRP.

41. It is further submitted that after the initiation of the insolvency proceedings, the proceedings became in rem, and even the creditor who has triggered the process would lose control of the proceedings. The respondents No. 1 and 2, who had initiated the insolvency process against CD, have settled their claim with the corporate debtor, and therefore the allottees/homebuyers have been left alone. It is thus submitted that the appellant be permitted to intervene in the aforesaid appeal.

42. Learned counsel for the Appellant vehemently submits that, keeping in view the law laid down by the Hon'ble Supreme Court in **Takshashila (supra)**, the intervening application filed on behalf of the Home Buyers Association is not maintainable, as they do not have any locus. It is submitted that the appellant, as a collective body, does not have any legal status and therefore does not have any locus to file either any appeal or any application before this Appellate Tribunal, thus, the application filed by the appellant to intervene is liable to be dismissed.

43. We notice that, though oral submissions have been made by Learned Counsel for the Appellant, no written objection or reply has been filed with regard to the IA No. 1340 of 2023 filed by the Applicant - Active Valley Square Welfare Association requesting to intervene in the instant matter.

44. We have already taken a decision while deliberating on IA No. 676 of 2026 filed by the Appellant Sanjeev Abrol in Company Appeal (AT) (Ins) No. 1249 of 2019 to dispose of that application at the time of disposing of the Appeal (AT) (Ins) No. 210 of 2022 filed by the Association of Home Buyers. We reiterate that in the attending facts and circumstances of this case it would be in the interest of justice that the application No. 676 of 2026 filed by the Appellant for withdrawal of the Appeal and the Appeal filed by the homebuyers i.e. CA (AT) (Ins) No. 210 of 2022 are decided simultaneously by the same bench. In case the Appeal filed by the Appellant is permitted to be withdrawn the intervening application will not survive and in case the application for a withdrawal moved by the Appellant is dismissed, it is only in that eventuality decision may be taken by us with regard to permitting or refusing the Association of Home buyers to intervene in the instant appeal.

45. For the reasons given herein before we choose not to dispose of this application as well and in our considered opinion this application, as well as IA No. 676 of 2026 moved by the Appellant, would be decided along with the CA (AT) (Ins) No. 210 of 2022.

46. Thus list the IA No. 1340 of 2023, IA No. 676 of 2026, (moved in CA (AT) (Ins) No. 1249 of 2019) and CA (AT) (Ins) No. 1249 of 2019 as well as CA (AT) (Ins) No. 210 of 2022 on **29.07.2026**.

[Justice Mohd. Faiz Alam Khan]
Member (Judicial)

[Naresh Salecha]
Member (Technical)

New Delhi.
22.07.2026.

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