NATIONAL COMPANY LAW APPELLATE TRIBUNAL
CHENNAI BENCH

08.09.2026

Present: JUSTICE N. SESHASAYEE, MEMBER (JUDICIAL)
JATINDRANATH SWAIN, MEMBER (TECHNICAL)

IA Nos. 1148 & 1149/2026
IN
Company Appeal (AT) (CH) (Ins) No.400/2026
(IA No. 1147/2026)

In the matter of:

Mr. T. Shyamprasad
Suspended Director of
M/s. Virgo Properties Private Limited,
Residing at "Plaza House", New No. 5, Old No. 3,
Thirumurthy Street, T. Nagar,
Chennai - 600 017 ...Appellant

Vs

M/s. Phoenix ARC Limited
Acting in its capacity as Trustee of
Phoenix Trust FY 22-16
Having its registered office at
3rd Floor, Wallace Towers, 139 & 130/B/1,
Crossing of Sahar Road and
Western Express Highway,
Vile Parle East, Mumbai,
Maharashtra - 400 047. ...Respondent No.1

Ms. Renuka Devi Rangaswamy
Interim Resolution Professional of
M/s. Virgo Properties Private Limited
(IP Registration No. IBBI/IPA, 001/IP, P01862/2019, 2020/12871)
Arthi Illam, #9, Jothi Nagar, 3rd Street,
Uppili Palayam (Post), Coimbatore,
Tamil Nadu - 641 015. ...Respondent No.2

(Arising out of Impugned Order dated 31.07.2026 passed by the National Company Law Tribunal, Chennai Bench, Division Bench-I in CP(IB)/28(CHE)/2022)

Present :

For Appellant : Mr. R. Sankaranarayanan, Senior Advocate
For Ms. Arthi Fernandes, Advocate

For Respondents : Mr. E. Om Prakash, Senior Advocate
For Ms. Aishwarya S Nathan, Advocate for R1
Mr. Mayan H Jain, Advocate for R2

WITH

IA Nos. 1155 & 1157/2026
IN
Company Appeal (AT) (CH) (Ins) No.404/2026
(IA No. 1156/2026)

M/s. VIRGO REALTORS PRIVATE LIMITED
Represented by its Suspended Director,
Having Its Registered Office At
"Plaza House", New No. 5, Old No. 3,
Thirumurthy Street, T. Nagar,
Chennai – 600 017. **...Appellant**

Vs

M/s. PHOENIX ARC LIMITED
(Trustee of Phoenix Trust FY 22-16)
Having Registered Office At:
3rd Floor, Wallace Towers, 139 0 130/B/1,
Vile Parle East, Mumbai,
Maharashtra – 400 047 **...Respondent No.1**

Ms. RENUKA DEVI RANGASWAMY
Interim Resolution Professional of
Virgo Properties Private Limited
Ph no: 63804 17402 **...Respondent No.2**

(Arising out of Impugned Order arising out of the order dated 31.07.2026 passed by the National Company Law Tribunal, Chennai Bench, Division Bench-I CP(IB)/71(CHE)/2022)

Present :

For Appellant : Mr. T.K. Bhaskar, Advocate

For Respondents : Mr. E. Om Prakash, Senior Advocate
For Ms. Aishwarya S Nathan, Advocate for R1
Mr. Mayan H Jain, Advocate for R2

ORDER
(Hybrid Mode)

[Per: Justice N Seshasayee, Member (Judicial)]

These appeals were filed by the suspended directors of the corporate debtor challenging the common order of the Adjudicating Authority admitting the appellants to CIRP in two separate petitions under Sec.7 IBC.

2. The facts leading to these appeals may be briefly stated:

a) These twin appeals are preferred by certain M/s. Virgo Properties Pvt Ltd and M/s. Virgo Realtors Pvt Ltd, two companies promoted by the same set of promoters belonging to a family. These companies were in the real estate business. While so, these companies approached M/s. L&T Housing Finance Ltd (henceforth LTHFL) for a loan and the lender, vide its sanction letter dated 15.06.2017 had sanctioned ₹107 crores in all for the two companies. Eventually, there was a bilateral agreement on 23.06.2017, with the two appellants herein constituting as one party, and LTHFL on the other. This is said to have been disbursed in multiple stages between June, 2017 to 2021. Of Rs.107 crores sanctioned, some ₹.56 crores were advanced to M/s. Virgo Properties Pvt Ltd (involved in C.A.400 of 2026) and about ₹.44.7 crores were advanced to M/s. Virgo Realtors Pvt Ltd (involved in C.A.404 of 2026). (There is, however, some dispute that the lender had advanced only Rs.98 crores, but that is a matter of detail which need not concern us for the present).

b) Out of the loan amount so received, the Virgo Realtors had sold one of the secured assets with the assent of LTFL for a sum of around ₹.60 crores, and paid part of the sale proceeds into the loan account. In all, according to the appellants, they have paid ₹.134 crores.

c) Be that as it may, on 29.03.2019, the LTHFL assigned its debt its sister concern, M/s. L&T Finance Ltd (henceforth would be referred to as LTFL) but according to the appellant that this assignment deals only with the debt component and not with the security component. This document was executed in Punjab. (for convenience, this will be termed as the First Assignment)

d) While things stood thus, due to the alleged default in the payment of interest, LTFL, the assignee of debt referred to above, had issued a notice dated 26.08.2019, and thereafter on 03.09.2019. In between, some dispute arose between the appellants and LTFL.

e) While things stood thus, on 19.03.2021, there was a merger of LTHFL & LTFL, which in other words was a merger of assignor and the assignee of the debt. This has happened vide an order of the NCLT, Kolkata Bench.

f) Subsequent thereto, on 29.10.2021, a notice came to be issued by LTFL, which in effect is a notice for the commencement of an arbitral proceedings under Section 21 of the Arbitration and Conciliation Act, 1996. The arbitral tribunal was constituted in December, 2021, before which the appellants preferred a claim for around ₹.23.0 crores and the LTFL made a counter claim for about ₹.34.0 crores. The proceeding is underway.

g) In the meantime, on 13.11.2021, LTFL declared the loan account as NPA.

h) It is in this backdrop, on 03.02.2022, after the commencement of the arbitral proceedings, LTFL filed separate petitions under Sec.7 against both Virgo Properties and Virgo realtors.

i) During the pendency of these petitions, on 29.03.2022, LTFL assigned the debt to Phoenix, the respondent herein. While the Adjudicating Authority approved the substitution of the financial creditor with Phoenix, the arbitral tribunal refused it. That however, need not concern us.

3. Both the counsel who appear (separately) for the appellants, substantially made the same submissions, through the learned counsel for the Virgo Realtors indicated a marginal variation in facts, which may not be very relevant at this preliminary stage. Their submissions are:

a) The first assignment carries few fault lines in law, and they are:

- LTHFL has only transferred the debt and has not assigned the security to LTFL. This artificially splits the integrity of the loan transaction and has created two causes of action for the same debt, which carry different period of limitation.
- The assignment has taken place in Ludhiana, Punjab. If the assignment document were to be read also as including the security interest, then it is liable to be registered under Section 28(b) of the Registration Act in Tamil Nadu. This has not been done, and hence it cannot

be admitted in evidence to establish the case of the respondent.

b) Turning to the merger of LTHFL with LTFL, the scheme of merger has not been disclosed. This will have an impact as to the nature of liabilities which have been transferred by LTHFL to LTFL. This suppression of fact necessarily will have an impact on the rights of the LTFL to invoke Sec. 7 of the Code. Indeed, an adverse inference needs to be drawn against the conduct of LTFL. Besides, there are other fault lines vis-à-vis even this merger:

   - If there is a transfer of security interest under the scheme of merger, it liable to be registered in Tamil Nadu.
   - Earlier, when the second assignment of debt etc., was challenged before this tribunal in C.A.(Ins) 316 of 2025, and this tribunal, vide its Order dated 21.07.2025, has granted liberty to the corporate debtor to challenge the validity admissibility, stamping, and need for registration during final arguments before the Adjudicating Authority. Though these aspects were argued, yet they were ignored without a discussion in the impugned orders.

c) Today, a curious scenario has arisen. Before the arbitrator, the corporate debtor is the claimant and LTFL is the counter claimant. Whether there exists a liability for constituting a debt for the purpose of maintaining a petition under Sec.7 of the Code is yet to be decided. However, the impugned Orders have placed the management of the corporate debtor in the hands of the IRP, as is statutorily required. And, the IRP will have to take instructions from the CoC regarding the conduct of the arbitral proceedings in which the LTFL or it's assignee will be a member. There is therefore no guarantee that the proceeding to determine the existence of the liability and the quantum of such liability will be done fairly and in the interest of the corporate debtor, and it can be easily be sabotaged.

d) At any rate, inasmuch as the LTFL, who claims to the financial creditor (since there is a dispute as to the assignment it has obtained from the LTHFL) it cannot be held that there is a crystalised debt. And, merely because Phoenix has replaced LTFL, it is not going to improve the situation.

e) Be that as it may, Virgo Properties has paid the entire debt, so much so the same stands discharged. Indeed, the balance in the loan account No. 624006370 stood nil and the same was recorded even in the impugned order. A 'nil' debt can never be transferred to Phoenix ARC.

4. In response the counsel for Phoenix, made his preliminary submissions:

a) So far as the first assignment deed dated 29.03.2019, is concerned, it has ceased to have any independent legal significance after the merger of LTHFL with LTFL with effect from 19.03.2021. Upon merger, all assets, and liabilities of the LTHFL automatically stands vested in LTFL, and hence the first deed of assignment ceased to have any independent significance in law.

b) The CD has been dealing with LTFL from 2019 to 2022 and have also initiated arbitration proceedings under Section 11 against them. Commencement of arbitral proceedings is absolutely no bar to initiate a proceeding under Sec.7 of the IBC.

c) Vide the second assignment LTFL has assigned its debt to Phoenix ARC. It is true, that it needs to be registered under Sec. 23 of the Registration Act, for which the document must be presented for registration within four months of execution. This was done, but due to certain legal issues, it came to be registered only on 23.11.2023. However, in terms of Sec.47 of the Registration Act, it operates retrospectively from the date of execution.

d) While the Corporate Debtors made certain payments from sale of the asset (which were credited), they have not discharged their entire liability. They proceed on the flawed premise that repaying more than the principal amount will extinguish the debt, but they have completely ignored the contractually payable interest and charges.

e) This apart, during the pendency of the petition, the appellant came out with certain OTS proposals, but it must be stated with fairness 'without prejudice to their case'.

5.1 Both sides have broadly outlined their strategy for the final disposal of these appeals. And, for grant of interim relief, we carefully weighed their rival submissions. In our view, two aspects stand out which make a strong prima facie impression about the merit of the appellants' case: (a) while pendency of arbitral proceeding is no bar to the institution of a petition under Sec.7 IBC, yet it is important that the debt should have been a crystalized debt for invoking Sec.7. Inasmuch as the pendency of dispute before the arbitrator is not disputed, and since it springs out of the very loan transaction which has fed the cause for the current litigation before us, it needs to be probed whether the debts and their quantum are yet to be ascertained by the arbitrator, or, have the debts claimed to be in default in the present proceedings been crystalized. The second aspect that created an equal impression is the 'nil' balance admittedly shown in the ledger of the creditor. It leads to a just question if the debt still exists. Other issues, most of which are but legal pleas founded on certain legal technicalities, which though have their own independent efficacy to upset the respondent's strategy to sustain the impugned Orders, yet they can be considered later during the final hearing.

5.2 **We accordingly, direct stay of the order of the Adjudicating Authority in CP(IB)/28/CHE/2022 and CP(IB)/71/CHE/2022.**

6. Since the rival sides have already outlined their respective strategies in this appeal, we deem it appropriate to post these appeals for final hearing. Both sides are required to submit their pointed notes of submissions, which we underscore, should be of such quality that it makes way for easy and speedy hearing.

7. List the appeals for final hearing on **16.11.2026.**

[Justice N. Seshasayee]
Member (Judicial)

[Jatindranath Swain]
Member (Technical)

VG/MS/AK