NATIONAL COMPANY LAW APPELLATE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI

Comp. App. (AT) (Ins) No. 1295 of 2026

IN THE MATTER OF:

Arvind Mittal Authorised Representative of the Financial Creditors in a Class **...Appellant(s)**

Versus

Mukesh Gupta & Ors. **...Respondent(s)**

Present:

For Appellant	:	Mr. Krishnendu Datta, Sr. Adv. with Ms. Parul Sachdeva, Ms. Srishti Juneja & Mr. Yash Tandon, Advocates
For Respondents	:	Mr. Abhijeet Sinha, Sr. Adv. with Mr. Arpit Dwivedi, Mr. Animesh Brahm & Mr. Mukesh Aggarwal, Advocates for R-3. Mr. Palash S Singhai, Mr. Harshal Sareen & Ms. Aashima Gautam, Advocates for R-4 Mr. Videh Vaish & Mr. Lalit Mohan, Advocates for R-5 & 6 Mr. Aneet Singh Sikka & Mr. Vikram Kumar, Advocates for IRP Mr. Pranjit Bhattacharya, Ms. Shalini Basu, Ms. Nitya Prabhakar & Mr. Kunal Dave, Advocates for R-15 Mr. Milan Singh Negi, Mr. Nikhil Kumar Jha, Ms. Katyayani & Mr. Utkarsh, Advocates for R- 8 to 13

With
Comp. App. (AT) (Ins) No. 1296 of 2026

IN THE MATTER OF:

Dr Mukesh Kumar Agarwal **...Appellant(s)**

Versus

Mukesh Gupta & Anr. **...Respondent(s)**

Present:

For Appellant	:	Mr. Abhijeet Sinha Sr. Adv. with Mr. Arpit Dwivedi & Mr. Anikesh Brahma, Advocates
For Respondents	:	Mr. Abhishek Anand, Mr. Karan Kohli & Ms. Ridhima Mehrotra, Advocates for R-1 Mr. Aneet Singh Sikka & Mr. Vikram Kumar, Advocates for IRP

O R D E R
(Hybrid Mode)

05.08.2026: I.A. No. 5043 of 2026 in Comp. App. (AT) (Ins) No. 1295 of 2026, I.A. No. 5044 of 2026 in Comp. App. (AT) (Ins) No. 1296 of 2026

Heard Ld. Counsel for the Appellants and Ld. Counsel for the Respondents and perused the record.

2. Shri Abhijeet Sinha, Ld. Sr. Counsel appearing for the appellant in CA (AT) (Ins) No. 1296 of 2026 and Respondent No. 3 in CA (AT) (Ins) No. 1295 of 2026 and Shri Krishnendu Dutta, Ld. Sr. Counsel appearing for the Appellant in CA (AT) (Ins) No. 1295 of 2026 submits that by passing the impugned order Ld. Adjudicating Authority has dismissed the plan approval application filed by the RP while disposing of two other applications i.e. IA No. 3749 of 2025 and IA No. 5128 of 2025 filed by one of the Suspended Director of the CD and 6 allottees, respectively.

3. At the outset it is submitted that appellant in CA (AT) (Ins) No. 1296 of 2026/SRA was a Respondent in plan approval application no. 32 of 2025 however no reply was sought from him and the impugned order has been passed and the Ld. Adjudicating Authority failed to consider and appreciate that the resolution plan submitted by the appellant is compliant with Section 30 (2) of the Code.

4. It is further submitted that Ld. Adjudicating Authority committed a mistake in holding that the resolution plan is violative of Section 30 (2) of the Code, on the ground that operational creditors (Government Dues) were being

paid less than the liquidation value in terms of Section 53 of the Code, which is contrary to the various clauses of the Resolution Plan.

5. It is further submitted that total admitted claims of the financial creditors which were constituting 100% of the CoC were to the tune of Rs. 79.60 Crores and the liquidation value of the CD was Rs. 34.67 Crores and hence in the event of liquidation and in terms of water fall mechanism the operational creditors would get 'NIL' amount whereas under the approved Resolution Plan the Operational Creditor were getting an amount higher than the minimum liquidation value. It is further highlighted that under the approved resolution plan by the CoC the EPFO dues were being paid 100%.

6. It is further submitted that finding of the Ld. Adjudicating Authority with regard to the fact that the plan is conditional and the claims of various allottees were not collated by the RP is not substantiating from the record and the other finding of the Ld. Adjudicating Authority with regard to violation of Regulation 6 A of the CIRP Regulations, 2016 is also not correct as the Resolution Plan has complied this Regulation in letter and spirit as well as it was also compliant with Regulation 38 (3) (a) of CIRP Regulations, 2016.

7. Shri Krishnendu Dutta, Ld. Sr. Counsel submits that the CoC is comprising of financial creditors in a class (allottees) and DCB Bank Ltd. The financial creditors in class are having 60% voting share while DCB Bank are having 40% of the voting share in the CoC and the plan was approved by 100% voting share and the AR of the homebuyers (appellant in CA (AT) (Ins) No. 1295 of 2026) has supported the Resolution Plan on the basis of the consensus of the allottees which was obtained in the meeting held on 23.04.2025 and out of 118 allottees 99 were present in that meeting and

supported the plan and it is on that basis the authorised representative has voted in favour of the plan in the CoC meeting.

8. It is further submitted that 6 homebuyers, out of whom 2 have also voted in favour of the approval of the plan, could not object to the resolution plan as a decision in the meeting was taken by majority to vote in favour of the plan.

9. It is further submitted that the impugned order is cryptic and without discussing the various provisions of the plan, the resolution plan has been rejected only by holding that allegations contained in IA No. 3749 of 2025 and IA No. 5128 of 2025 are serious in nature without giving a finding with regard to the substantiation of these allegations with any material on record and contrary to the scheme of IBC an Advocate has been appointed to supervise the process.

10. It is vehemently submitted by Ld. Counsel for the Appellants that by passing the impugned order the newly appointed IRP has been directed to issue a fresh publication to invite claims from all the allotttees and other creditors within 15 days from the date of the order and would complete the process within 150 days, and the start of fresh process on hyper technical grounds assumed by the Ld. Adjudicating Authority would cause a great prejudice to the allottees/creditors in class as well as to the SRA as otherwise the resolution plan submitted by the SRA approved by 100% CoC was compiled in all respect and was not violative of Section 30 (2) of the Code.

11. Ld. Counsel for the DCB Bank Ltd. has supported the submissions made by Ld. Counsel for the Appellants.

12. Ld. Counsel appearing for the Respondent –Deepak Mangla, Suspended Director of the CD submits that the Erstwhile RP was conducting the entire Resolution Process with the intention of defrauding creditors and stakeholders and he tempered with the voting process and with the help of other Suspended Directors siphoned the assets of the CD by transferring the same illegally to the relatives/nominees of the other Suspended Directors and he also did not include the entire asset of the CD in the information memorandum and he was in active connivance with Shri Yogesh Aggarwal and the authorised representative of the allottees also turned blind eyes towards the illegal activities of the erstwhile RP. It is also submitted that the Deepak Mangla has also paid Rs. 14 lakhs out of the 52 lakhs demanded by the RP and all these transactions were fraudulent and were within the definition of Section 66 of the Code.

13. Ld. Counsel for the 6 allottees namely Rajrani and Ors. submits that the RP has not made any efforts to include the claims of all the allottees and while it was evident that there were about 400 allottees however the RP did not make sincere effort to collate the claims of all the allottees.

14. It is further submitted that the Resolution Professional has also failed in its duty to issue notice of initiation of CIRP under Regulation 6 A of CIRP Regulations, 2016 and even when the Suspended Directors were not cooperating he did not file any application under Section 19 (2) of the IBC.

15. It is further submitted that information memorandum was also prepared vaguely and did not include the lands of the CD which were to be transferred to the CD and therefore the RP was in active connivance of the

Suspended Directors and no application under Section 43, 45, 49, 50 or 66 of the Code was moved by him.

16. It is further submitted that the Respondents would bring on record the proof of all the illegal activities of the erstwhile RP and therefore there is no illegality in the impugned judgment because due to the non-inclusion of all the allottees, proper CoC was not constituted and the information memorandum was not correctly prepared as various properties which should come to the CD has been left and the plan was also violative of Regulation 6 A of CIRP Regulations, 2016 and Section 30 (2) (b) of the Code.

17. Ld. Counsel for the Erstwhile RP however submits that he has taken all the due steps to collect the claims of the allottees and has also contacted the local RWA and the information of the CIRP was circulated in the WhatsApp group of allottees maintained by the RWA and as one of the project namely Kalka Pearl was complete and many allottees have also possessed the units they themselves did not file any claim as they were apprehending as they will file the claim the unit possessed by them would go in the CIRP and consequently in the possession of the RP. It is submitted that the RP has conducted the insolvency process with utmost fairness and transparency.

18. Ld. Counsel for the new RP, however contended that in view of the direction of the Ld. Adjudicating Authority, he is obliged to complete the process within 150 days.

19. We have heard Ld. Counsel for the parties and perused the record.

20. It is reflected that on an application filed by one of the Suspended Director and 6 allottees the ld. Adjudicating Authority found the resolution plan submitted by SRA approved by 100% voting share by the CoC, violative

of Section 30 (2) (b) of the IBC as according to the finding returned by the Ld. Adjudicating Authority the government dues are not paid in terms of Section 53 of the Code and also that the funds of the CD were used to buy certain properties and instead of filing application under Section 66 of the Code the RP transferred the property in the names of promoters and their relatives and it is not shown in the plan as to how the default has been addressed by the SRA in terms of Regulation 38 (3) (a) of CIRP Regulations, 2016 and the RP has not made efforts to collate the claim from the all the allottees.

21. Ld. Counsel for the Appellants by showing various clauses of the Resolution Plan submits that the findings recorded by the Ld. Adjudicating Authority are not correct with regard to the plan being non-compliant with Regulation 6A and 38 (3) of the CIRP Regulations, 2016 and Ld. Adjudicating Authority has not considered the various clauses of the Resolution Plan.

22. It is also submitted that the AR of the allottees was duly appointed and he on the basis of the consensus arrived in the meeting of the 118 allottees, has supported the Resolution Plan and therefore 6 independent allottees cannot object to the plan approved by the majority of the allottees. It is also submitted that the Ld. Adjudicating Authority has only termed the allegations contained in aforesaid two IAs as serious in nature, without assessing as to whether these allegations are substantiated by any evidence or material and has disapproved a plan which was approved by 100% voting share of the CoC and therefore the adjudicating authority has gone out of its jurisdiction to challenge the commercial wisdom of the CoC and so much so one Advocate has been appointed to supervise the entire Insolvency Process.

23. We are conscious that we are dealing with the interim applications and thus we do not want to discuss the submissions and counter submissions made by the parties, in detail, and to record any finding at this stage, as this exercise would be taken up at the stage of passing final judgment. However, since the Resolution Plan was approved by the CoC with 100% voting share, in our considered opinion from the facts and circumstances of the case a prima facie case emerges in favour of the appellants for issuance of interim direction and balance of convenience is also in their favour and certainly they will suffer irreparable injury specially the allottees if there would be extraordinary delay in getting the possession of their dream homes.

24. Considering all the facts and circumstances of the case, we find it a fit case where interim directions could be issued.

25. The order dated 24.07.2026, reflects that except Respondent No. 7 in CA (AT) (Ins) No. 1295 of 2026 the notices were received by the Counsels of all the Respondents except Respondent no. 7/Hari Singh thus issue notice to the Hari Singh/ Respondent No. 7 with regard to the appeal as well as interim stay application. Steps along with process fee as well as requisites be filed within four working days.

26. The Respondent No. 1 and 2 in CA (AT) (Ins) No. 1296 of 2026 are also Respondent in CA (AT) (Ins) No. 1295 of 2026.

27. Ld. Counsel for the Respondents may also file their replies with regard to the appeal as well as with regard to the stay applications within two weeks from today with an advance copy to the Ld. Counsel for the Appellant who in turn if so wish may also file rejoinder within one week thereafter.

28. It is provided that till the next date of listing the newly appointed RP may collate the claims of the creditors, diligently but shall not constitute the CoC and if the CoC has already been constituted will not call a meeting of the same.

29. The direction given in para no. 14 of the impugned judgment will also remain stayed till the next date of listing.

30. List on **03.09.2026**.

[Justice Mohammad Faiz Alam Khan]
Member (Judicial)

[Naresh Salecha]
Member (Technical)

sr/mr