

NATIONAL COMPANY LAW APPELLATE TRIBUNAL,
PRINCIPAL BENCH, NEW DELHI

Company Appeal (AT) (Insolvency) No. 382 of 2024

In the matter of:

Katra Realtors Pvt. Ltd.Appellant

Vs.

Mr. Rajesh Ramnani, RP of Ansal UrbanRespondents
Condominiums Pvt. Ltd. & Anr.

For Appellant Mr. Abhijeet Sinha, Mr. Gaurav Mitra, Sr.
Advocates with Mr. Sujoy Datta, Ms. Nishtha
Khurana, Mr. Vibhor Kapoor, Ms. Kinjal Goyal, Ms.
Garima Dhankar, Ms. Lavanya Pathak, Ms. Mahima
Shikhawat, Advocates.

For Respondents Mr. Shivansh Kumar, Mr. Sameer Rohatgi,
Advocates for R1
Mr. Rajesh Ramnani, RP
Mr. Atul Sharma, Advocate for Homebuyers.

ORDER

(Hybrid Mode)

04.03.2024: Heard Learned Counsel for the Appellant as well as Counsel appearing for the Respondents.

2. This Appeal has been filed against the order dated 24.01.2024 passed by the Adjudicating Authority (National Company Law Tribunal), New Delhi, Court-III by which the IA No.882 of 2023 filed by the Appellant for replacement of Resolution Professional has been rejected. The Appellant is a minority shareholder having 8.785% shareholding in the Corporate Debtor. The Adjudicating Authority has rejected the application relying on Section 27 of the IBC.

3. Learned Counsel for the Appellant challenging the order submits that there were allegations made against the Resolution Professional in the application questioning the various admission of claims by the Resolution

Professional and other transactions which has not been examined by the Adjudicating Authority.

4. Learned Counsel for the Respondents refuting the submission of the Counsel for the Appellant submits that the group company of the Appellant has already filed an application before the Adjudicating Authority questioning the transactions and admission of claims which are pending consideration. It is submitted that the Appellant who is minority shareholder of the same promoter group has filed the application to create obstacles in carrying out the CIRP.

5. We have considered the submissions of the Counsel for the parties are perused the record.

6. It is not disputed that the Appellant is shareholder having 8.785% who has moved the application for replacement of the RP. It is well settled that Section 27 is enabling provision where replacement of RP can be proceeded.

7. Learned Counsel for the Appellant has referred to judgment of this Tribunal where this Tribunal has taken the view that the Adjudicating Authority does not lack of jurisdiction to take decision in appropriate cases for replacement of the RP. He has referred to judgment of this Tribunal in Company Appeal (AT) (Insolvency) No.947 of 2021- ***“Stressed Assets Stabilization Fund (SASF) vs. Piyush Periwal & Ors.”*** and other judgments.

8. Learned Counsel for the Respondents submits that the Adjudicating Authority exercised its jurisdiction in cases at the instance of the financial creditor and those who were affected and not by minority shareholders as in the present case.

9. In the facts of the present case, we are of the view that the Adjudicating Authority did not commit any error in rejecting the application filed by the Appellant. Any application for replacement *dehorse* Section 27 process can be entertained only when there are findings on conduct of the Resolution

Professional by the Adjudicating Authority or some proved fact, merely on allegation as has sought to be made by the Applicant, the Adjudicating Authority shall not enter into enquiry and decide the allegations for the purpose of deciding the application filed by the Appellant.

10. We thus, are of the view that no error has been committed by the Adjudicating Authority in rejecting the application. We only observe that in event, any finding is entered by the Adjudicating Authority, it shall be open for the Appellant to file a fresh application in accordance with the law. The Appeal is dismissed.

**[Justice Ashok Bhushan]
Chairperson**



LEGALERA
BY THE PEOPLE. FOR THE PEOPLE. OF THE PEOPLE

**[Barun Mitra]
Member (Technical)**

**[Indevar Pandey]
Member (Technical)**

Anjali/nn