

NATIONAL COMPANY LAW APPELLATE TRIBUNAL, NEW DELHI

Company Appeal (AT) (Insolvency) No. 682 of 2020

IN THE MATTER OF:

ICICI Bank Ltd.

...Appellant

Versus

Skylark Ithaca Buyers Welfare Association & Anr.

...Respondents

Present:

For Appellant: Mr. Abhishek Anand and Mr. Viren Sharma, Advocates.

For Respondents: Mr. Vipul Ganda, Mr. Aman Choudhary and Ms. Anushka Sarker, Advocates.

Mr. Nikhil Jain and Mr. Rajnish Sinha, Advocates.

Mr. Rajnish Sinha, Advocate with Ms. Bhuvaneshwari Ranasnathan, RP in person.

With

Company Appeal (AT) (Insolvency) No. 647 2020

IN THE MATTER OF:

Mrs. Nishaat Saleem

...Appellant

Versus

Skylark Ithaca Buyers Welfare Association

...Respondent

Present:

For Appellant: Mr. Arun Kathpalia and Mr. Shashikiran Shetty, Sr. Advocates with Mr. Mahesh Thakur and Mr. Samarth Sreedhar, Advocates.

For Respondent: Mr. Vipul Ganda, Mr. Aman Choudhary and Ms. Anushka Sarker, Advocates.

Mr. Abhishek Anand and Mr. Viren Sharma, Advocates for ICICI.

Mr. Abhijeet Sinha, Mr. Malak M Bhatt and Ms. Neeha Nagpal, Advocates for Xander (Intervenor).

ORDER
(Through Virtual Mode)

10.08.2020: The issue raised in both these appeals is whether the Allottees of 'Ithaca Estates Pvt. Ltd.' are the Financial Creditors qua 'Skylark Mansions Pvt. Ltd.'.

Issue notice upon Respondents in both the appeals. Mr. Vipul Ganda, learned counsel waived and accepted notice on behalf of Respondent No. 1 in both the appeals. Mr. Rajnish Sinha, Advocate accepted notice on behalf of Respondent No. 2 in Company Appeal (AT) (Insolvency) No. 682 of 2020. Respondents may file their reply-affidavits within two weeks. Rejoinder, if any, may be filed within two weeks thereof.

Let notice be issued on Respondent No. 3 in Company Appeal (AT) (Insolvency) No. 682 of 2020. Appellant to provide mobile Nos./e-mail address of Respondent No. 3. Notice be issued through e-mail or any other available mode. Requisites along with process fee be filed within two days.

I. A. No. 1804 of 2020 has been filed by 'Xander Finance Pvt. Ltd.' seeking intervention in Company Appeal (AT) (Insolvency) No. 647 of 2020 on the ground that it is a Secured Creditor of the Corporate Debtor. Though the title and the prayer clause of the application suggests that it seeks impleadment as Party Respondent, a statement has been made by Shri Abhijeet Sinha, learned counsel for the Applicant that the applicant may only be permitted to intervene and address the court. In the view of the statement made at Bar, this application is allowed only to the extent of intervention by the Applicant as Intervenor.

List these appeals 'for admission (after notice)' on **11th September, 2020**.

Meanwhile, the 'Interim Resolution Professional' will ensure that the company remains going concern and will take assistance of the (suspended) Board of Directors. The Appellant/ Corporate Debtor shall provide all assistance as required and cooperate with the Interim Resolution Professional and the persons who are working will perform their duties including the paid Directors. The person who is authorised to sign the bank cheques may sign cheques only after authorisation of the 'Interim Resolution Professional' with counter signature of the 'Interim Resolution Professional' at the back side of the cheques. In such case, the Bank shall release the payment. The Interim Resolution Professional will place this order before the Banks, in which accounts of Corporate Debtor are maintained. The Bank Account(s) of the 'Corporate Debtor' be allowed to be operated for day-to-day functioning of the company such as for payment of Current Bills of the Suppliers, Salaries and Wages of the employees'/workmen, electricity bills etc.

We make it clear that this direction will be only in regard to project 'Skylark ITHACA'.

[Justice Bansi Lal Bhat]
Acting Chairperson

[V. P. Singh]
Member (Technical)

[Dr. Alok Srivastava]
Member (Technical)

am/gc