

(2024) ibclaw.in 1132 NCLT

IN THE NATIONAL COMPANY LAW TRIBUNAL
New Delhi Bench

Mahi Buildhome Pvt. Ltd.

v.

Kaveri Technobuild Pvt. Ltd.

CP IB No. 722/(ND)/2023 Along with I.A. No. 2588/ND/2024
Decided on 03-Dec-24

Shri Mahendra Khandelwal (Judicial Member) and Dr. Sanjeev Ranjan (Technical Member)

Add. Info:

Corporate Debtor: Kaveri Technobuild Pvt. Ltd.

For Appellant(s): Mr. Pranav Gupta, Adv.

For Respondent(s): Mr. Adhish Srivastav, Adv

Brief about the decision:

- In terms of Section 65 of the Insolvency and Bankruptcy Code, 2016, there must be substantial and corroborative evidence to prove that the Operational Creditor initiated the current proceedings fraudulently and with malicious intent.
 - In the present case, the Corporate Debtor contended that the Operational Creditor has relied on forged and fabricated documents to establish the existence of operational debt in terms of Section 5(21). However, the Applicant has not provided any material to substantiate that the Operational Creditor has filed Section 9 petition with any fraudulently or with malicious intent.
 - Merely filing a weak case is not ground to exercise power under Section 65. Moreover, the payments of undisputed invoices made by the Corporate Debtor was also never rebutted by the Operational creditor during the proceedings. Based on these facts and circumstances, it appears that the Operational Creditor relied on certain claims for which it could not provide substantiating evidence. However, merely on the basis that the Operational Creditor has relied on certain facts without substantiating documents, an action under Section 65 cannot be initiated against the Operational Creditor. **(p16)**
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