

(2024) ibclaw.in 838 NCLT

IN THE NATIONAL COMPANY LAW TRIBUNAL
Indore Bench

Rajeev Agnihotri
v.
Nirmal Kumar Jain and Ors.

Inv.P/8(MP)2024 & IA/371(MP)2024 in C.P.(IB)/26(MP)2024
Decided on 11-Sep-24

Smt. Chitra Ram Hankare (Judicial Member) and Shri Kaushalendra Kumar Singh (Technical Member)

Add. Info:

Corporate Debtor: Pushp Ratna Realty Pvt. Ltd.

For Appellant(s): Ld. Adv. Mr. Nipun Singhvi (Online) a.w. Ld. Adv. Mr. Mayur Jugtawat (Online), Ld. Adv. Mr. Manoj Munshi (Online) a.w. Ld. Adv. Mr. Chiranjeev Saboo (Online)

For Respondent(s): Ld. PCS Mr. Pratik Tripathi (Online)

Brief about the decision:

Facts of the case

- A company petition C.P.(IB)/26(MP)2024 has been filed by some of the homebuyers under Section 7 of the IBC, 2016 seeking initiation of the CIRP in the case of Corporate Debtor Pushp Ratna Realty Pvt. Ltd.
- Intervention petitions are filed by the applicants/interveners seeking direction to array him as a respondent in the C.P.(IB)/26(MP)2024 and provide an opportunity to defend his interest in the respondent company.
- The present applicant/intervener and his family members are the shareholders in the corporate debtor Pushp Ratna Realty Pvt Ltd.
- Both the applications are filed and listed for hearing at the stage when the said company petition C.P.(IB)/26(MP)2024 has already been heard in part.

Decision of Adjudicating Authority

- It is observed that the present petition C.P.(IB)/26(MP)2024 is filed by the homebuyers under Section 7 of the IBC, 2016 for initiating the insolvency proceedings against the said corporate debtor and as such the respondent/corporate debtor is to be represented by the present management having control over the company and **individual shareholder would not have any locus-standi. (p5)**
- The learned counsel for the petitioner/homebuyers and the corporate debtors, who were

present on advance service of these applications, also objected to the *locus standi* of the applicant/intervener. They also submitted that they did not intent to file any reply as the application filed by the applicant/intervener requires to be dismissed forthwith. **(p5)**

- The applicant/intervener are raising the issue for objecting the admission of Section 7 petition primarily on the ground that the said application of homebuyers is barred by limitation. The Tribunal also notes that the issue of limitation in any case is to be examined while taking decision for admission of the Section 7 petition and is being looked into in the proceedings of the company petition CP(IB)/26(MP)2024. As such applicant/intervener is not required to be heard on the issue of limitation as the same will have to be examined even otherwise by this Adjudicating Authority while deciding the said Section 7 petition. **(p6-7)**
 - Further there appears to be a dispute between the shareholders. Prima facie it appears to be **an oppression & mismanagement matter and the submissions of the applicant/intervener that he has also moved an arbitration as well would have no bearing to section 7 proceedings**; and for that reason also the applicant/intervener even being **shareholder does not have any locus-standi in the matter of Section 7 petition** and, therefore, **cannot be allowed to be impleaded as respondent in Section 7 petition and in view thereof both the applications are not maintainable.** **(p7)**
 - Accordingly, Inv.P/8(MP)2024 & IA/371(MP)2024 stand **dismissed.** **(p8)**
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Judgment/Order:

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