

8

**NATIONAL COMPANY LAW TRIBUNAL  
BENGALURU BENCH**

ATTENDANCE CUM ORDER SHEET OF THE HEARING OF NATIONAL COMPANY LAW TRIBUNAL,  
BENGALURU BENCH, BENGALURU, HELD ON 19.03.2021

**CAUSE LIST**

PRESENT: 1. Hon'ble Member (J), Shri Rajeswara Rao Vittanala  
2. Hon'ble Member (T), Shri Ashutosh Chandra

| CP/CA No.              | Purpose  | Sec                    | Name of Petitioner      | Petitioner Advocate | Name of Respondent        | Respondent Advocate  |
|------------------------|--|------------------------|-------------------------|---------------------|---------------------------|--|
| CP(IB) No. 305/BB/2019 | For pronouncement of order in IA 58/2021 to set aside the decision of RP IA 59/2021 to set aside the decision of RP - CIRP | Sec 7 of I&B Code 2016 | M/s Kotak Mahindra Bank |                     | M/s Arun Shelters Pvt Ltd | Sripriya Kumar , RP , Vijay Kumar for RP, Anandarama & Prashanth for IA 58 & 59/2021 |

ADVOCATE FOR PETITIONER/s:

ADVOCATE FOR RESPONDENT/s:

**ORDER**

IA No. 58/2021 & IA No. 59/2021 in CP (IB) No. 305/BB/2019 are disposed of by separate orders. Post the case on 06.04.2021.

MEMBER (T)

MEMBER (J)

**BEFORE THE NATIONAL COMPANY LAW TRIBUNAL  
BENGALURU BENCH**

I.A.No.58/2021 in  
C.P. (IB) No.305/BB/2019  
U/s. 60(5) (B) & (c) of the I&B Code, 2016  
R/w Rule 11 of the NCLT Rules, 2016

**Between:**

**M/s. Puravankara Limited**  
130/1, Ulsoor Road,  
Bangalore - 560 042

... Applicant

**AND**

**M/s. Kotak Mahindra Bank Limited**  
27 BKC, G Block, C-27  
Bandra Kurla Complex,  
Bandra (East)  
Mumbai - 400 051 & 2 Ors.

... Respondent

**Pronouncement of Order: 19<sup>th</sup> March, 2021**

**Coram:** 1. Hon'ble Shri Rajeswara Rao Vittanala, Member (Judicial)  
2. Hon'ble Shri Ashutosh Chandra, Member (Technical)

**Parties/Counsels Present (through Video Conference):**

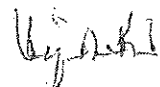
For the Applicant : Mr. K. Anandarama

For the Respondent : Ms. Anisha Aatresh

**ORDER**

**Per:** Rajeswara Rao Vittanala, Member (J)

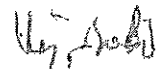
1. I.A.No.58/2021 in C.P. (IB) No.305/BB/2019 is filed by M/s. Puravankara Limited, ('Applicant/Financial Creditor), U/s. 60(5) (b) &

  
Page 1 of 4

(c) of the I&B Code, 2016 R/w Rule 11 of the NCLT Rules, 2016 by inter-alia seeking to set aside the decision of the RP keeping the claim of the Applicant in abeyance, communicated to the Applicant vide email dated 30.12.2020 etc.

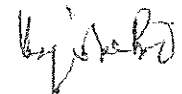
2. Brief facts of the case, which are relevant to the issue in question, are as follows:

- (1) Initially, the main Petition bearing C.P. (IB)No.305/BB/2019 filed by M/s. Kotak Mahindra Bank Limited (Petitioner) was admitted by the Adjudicating Authority, vide its Order dated 31.01.2020, by initiating CIRP in respect of the Corporate Debtor, appointing Mr. Pankaj Srivastava as IRP, imposing moratorium etc. In pursuant to the aforesaid order, the IRP caused a public announcement dated 06.02.2020 in Deccan Herald calling up on the creditors of CD to submit their claims on or before 21.02.2020. In response to the public announcement, the Applicant submitted its claim in Form C dated 18.02.2020.
- (2) Accordingly, IRP constituted a COC in respect of Project Arun Auroville on 02.03.2020. When it was sought to be changed, Kotak Mahindra Bank (Financial Creditor) questioned it by filing I.A Nos. 187 and 195/2020 before this Adjudicating Authority by *inter-alia* seeking to setting aside the decision of the IRP in constituting the COC for the entity and consequently, restore the COC as constituted on 02.03.2020, which was allowed by an order dated 29.06.2020. In pursuant to the order dated 29.06.2020, the IRP constituted the COC, thereby restoring the COC as constituted on 02.03.2020. And thereafter, the new RP again want to reverse the decision again by observing that the claims received in pursuant to the public announcement pertain not only to the project Arun Auroville but also another project by name Arun



Kausthuba/Parkwoods, wherein also the Corporate Debtor had committed default to its Creditors and the claim of the Applicant pertains to the Project Arun Kausthuba/Parkwoods. Therefore, Resolution professional earlier filed IA No.515 of 2020 by inter alia seeking to permit the RP to continue a COC for Project Arun Prakwoods, an independent real estate project of Corporate Debtor, contrary to decision of the Adjudicating Authority. Since RP was erroneous and contrary to decision of the Adjudicating Authority, the RP withdrawn it, and thus it was dismissed by an order dated 21<sup>st</sup>. December, 2020.

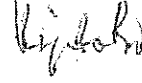
- (3) In spite of knowing all the developments takes place in the case, the Applicant resorted to filing this Application in order to mislead the Adjudicating Authority.
3. Heard Shri K Anandarama, learned Counsel for the Applicant and Ms. Anisha Aatresh, learned Counsel for the Respondent. We have carefully perused the pleadings of the Parties and also extant provisions of the Code and Rules made thereunder and various orders passed by the Adjudicating Authority in the case.
4. As detailed supra, the common order dated 29<sup>th</sup> June, 2020 passed in I.A Nos. 187 & 195 of 2020 has become final, and thus it is binding on all the Parties including the Applicant herein. And the present Application is filed on misconceived facts, and it is misleading. The Applicant is estopped from filing the Application. Therefore, the present Application is also liable to be dismissed.
5. In the result, **I.A. No.58/2021** in C.P. (IB) No.305/BB/2019 is hereby rejected as devoid of merits. The Resolution Professional is directed to follow all the orders passed by the Adjudicating Authority, which



includes the common order dated 29.06.2020 passed in I.A Nos. 187 and 195 of 2020, without fail. No order as to costs.



**(ASHUTOSH CHANDRA)**  
**MEMBER, TECHNICAL**



**(RAJESWARA RAO VITTANALA)**  
**MEMBER, JUDICIAL**

Brunda

**BEFORE THE NATIONAL COMPANY LAW TRIBUNAL  
BENGALURU BENCH**

I.A.No.59/2021 in  
C.P. (IB) No.305/BB/2019  
U/s. 60(5) (B) & (c) of the I&B Code, 2016  
R/w Rule 11 of the NCLT Rules, 2016

**Between:**

**M/s. Kenstream Ventures LLP**  
130/1, Ulsoor Road,  
Bangalore - 560 042

... Applicant

**And**

**M/s. Kotak Mahindra Bank Limited**  
27 BKC, G Block, C-27  
Bandra Kurla Complex,  
Bandra (East)  
Mumbai - 400 051 & 2 Ors.

... Respondent

**Pronouncement of Order: 19<sup>th</sup> March, 2021**

**Coram:** 1. Hon'ble Shri Rajeswara Rao Vittanala, Member (Judicial)  
2. Hon'ble Shri Ashutosh Chandra, Member (Technical)

**Parties/Counsels Present (through Video Conference):**

For the Applicant : Mr. K. Anandarama

For the Respondent : Ms. Anisha Aatresh

**ORDER**

**Per:** Rajeswara Rao Vittanala, Member (J)

1. I.A.No.59/2021 in C.P. (IB) No.305/BB/2019 is filed by M/s. Puravankara Limited, ('Applicant/Financial Creditor), U/s. 60(5) (b) &



(c) of the I&B Code, 2016 R/w Rule 11 of the NCLT Rules, 2016 by inter-alia seeking to set aside the decision of the RP keeping the claim of the Applicant in abeyance, communicated to the Applicant vide email dated 30.12.2020 etc.

2. Brief facts of the case, which are relevant to the issue in question, are as follows:

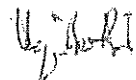
(1) Initially, the main Petition bearing C.P. (IB)No.305/BB/2019 filed by M/s. Kotak Mahindra Bank Limited (Petitioner) was admitted by the Adjudicating Authority, vide its Order dated 31.01.2020, by initiating CIRP in respect of the Corporate Debtor, appointing Mr. Pankaj Srivastava as IRP, imposing moratorium etc. In pursuant to the aforesaid order, the IRP caused a public announcement dated 06.02.2020 in Deccan Herald calling up on the creditors of CD to submit their claims on or before 21.02.2020. In response to the public announcement, the Applicant submitted its claim in Form C dated 18.02.2020.

(2) Accordingly, IRP constituted a COC in respect of Project Arun Auroville on 02.03.2020. When it was sought to be changed, Kotak Mahindra Bank (Financial Creditor) questioned it by filing I.A Nos. 187 and 195/2020 before the Adjudicating Authority by *inter-alia* seeking to setting aside the decision of the IRP in constituting the COC for the entity and consequently, restore the COC as constituted on 02.03.2020, which was allowed by an order dated 29.06.2020. In pursuant to the order dated 29.06.2020, the IRP constituted the COC, thereby restoring the COC as constituted on 02.03.2020. And thereafter, the new RP again want to reverse the decision again by observing that the claims received in pursuant to the public announcement pertain not only to the project Arun Auroville but also another project by name Arun



Kausthuba/Parkwoods, wherein also the Corporate Debtor had committed default to its Creditors and the claim of the Applicant pertains to the Project Parkwoods. Therefore, Resolution professional earlier filed IA No.515 of 2020 by inter alia seeking to permit the RP to continue a COC for Project Arun Prakwoods, an independent real estate project of Corporate Debtor, contrary to decision of the Adjudicating Authority. Since RP was erroneous and contrary to decision of the Adjudicating Authority, the RP withdrawn it, and thus it was dismissed by an order dated 21<sup>st</sup>. December, 2020.

- (3) In spite of knowing all the developments takes place in the case, the Applicant resorted to filing this Application in order to mislead the Adjudicating Authority.
3. Heard Shri K Anandarama, learned Counsel for the Applicant and Ms. Anisha Aatresh, learned Counsel for the Respondent. We have carefully perused the pleadings of the Parties and also extant provisions of the Code and Rules made thereunder and various orders passed by the Adjudicating Authority in the case.
4. As detailed supra, the common order dated 29<sup>th</sup> June, 2020 passed in I.A Nos. 187 & 195 of 2020 has become final, and thus it is binding on all the Parties including the Applicant herein. And the present Application is filed on misconceived facts, and it is misleading. The Applicant is estopped from filing the Application. Therefore, the present Application is also liable to be dismissed.
5. In the result, **I.A. No.59/2021** in C.P. (IB) No.305/BB/2019 is hereby rejected as devoid of merits. The Resolution Professional is directed to follow all the orders passed by the Adjudicating Authority, which





includes the common order dated 29.06.2020 passed in I.A Nos. 187 and 195 of 2020, without fail. No order as to costs.



**(ASHUTOSH CHANDRA)**  
**MEMBER, TECHNICAL**



**(RAJESWARA RAO VITTANALA)**  
**MEMBER, JUDICIAL**

Brunda

