

Nalawade

**BEFORE MAHARASHTRA REAL ESTATE APPELLATE TRIBUNAL
MUMBAI**

(22) APPEAL NO. AT006000000113936

Wadhwa Buildcon LLP	... Appellant
-vs-	
Vishal Adhikari	... Respondent

(23) APPEAL NO. AT006000000113937

Wadhwa Buildcon LLP	... Appellant
-vs-	
Amit Nandkishor Singhania	... Respondent

(24) APPEAL NO. AT006000000113938

Wadhwa Buildcon LLP	... Appellant
-vs-	
Suryakant Shah	... Respondent

Mr. Shadad Khan, Advocate for Appellants.

Mr. Mayuresh Borkar, Advocate for Respondent in sr. no.23.

None for Respondents in sr. nos.22 and 24.

CORAM : SHRI SHRIRAM R. JAGTAP, MEMBER (J) &

DR. K. SHIVAJI, MEMBER (A)

DATE : 31st JULY, 2023

(THROUGH VIDEO CONFERENCE)

ORAL ORDER

Mr. Shadad Khan, learned counsel for Appellants,
Mr. Mayuresh Borkar, learned counsel for Respondent in Sr. no.23 joined
the conference.



- 2] None for Respondent in Sr.nos.22 and 24.
- 3] Learned counsel appearing for Appellant submits that under Section 7 of the IB Code Appellant company has been declared under moratorium with the directions which prohibits institution of suits or continuation of pending suits or proceedings against the Corporate Debtor including execution of any judgment, decree or other in any court of law.....etc., vide order of NCLT dated 28.07.2020.
- 4] Learned counsel for Appellant further submit that in view of the order of NCLT (supra), the impugned order passed by MahaRERA dated 26.05.2022 is legally not sustainable.
- 5] Learned counsel for Appellant further submit Respondents herein have suppressed the crucial and important material facts about the Appellant company undergoing CIRP process. Even though these facts were known to all the three Respondents herein as they have already filed their claims before the resolution professionals as per the provisions of I.B.C.
- 6] Because of the suppression of these material facts, grave errors have crept in, which is contrary to the provisions of law and the impugned order passed was otherwise barred in law as they would amount to multiple adjudications of claims i.e, one of by the Tribunal and another of Resolution Professional.



7] Learned counsel for Appellant further submits *inter alia* that with this submission, detailed ground has already been mentioned in the appeal. Thereby, Appellant has sought to quash and set aside the complaint in these Appeals.

8] Learned counsel for Appellant further submits that in view of above facts on record, all the three appeals be remanded to MahaRERA to be decided afresh considering that the order passed is not legally sustainable *inter alia* on account of the order of NCLT dated 28.07.2020.

9] Mr. Mayuresh Borkar submits and confirms that Appellant company is undergoing CIRP proceeding, and the moratorium order has already been passed on 28.07.2020, thereby the Respondent has no objection, if the matter is remanded to MahaRERA by keeping all the rights and contention of parties open.

10] Considering the above facts and submissions made by both sides, we are of the view that the matter requires to be considered afresh and accordingly we proceed to pass the order as follows;

ORDER

a) Appeal Nos. AT006000000113936, AT006000000113937 and AT006000000113938 are partly allowed.

b) Complaint Nos. CC006000000181972, CC006000000193076 and CC006000000193365 are remanded to MahaRERA to be considered



afresh by keeping the rights and contentions of the parties open and to be considered on merits in accordance with law.

c) No costs.

d) In view of the provision of section 44 (4) of the Act of 2016 copy of this order will be sent to both the parties and MahaRERA.


(DR. K. SHIVAJI)


(SHRIRAM R. JAGTAP, J.)