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IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

SURYA KANT; CJI., JOYMALYA BAGCHI; J.

CIVIL APPEAL NO. 2626 OF 2025; February 05, 2026

APEX HEIGHTS PVT. LTD. versus RAM KISHOR ARORA & ANR.

Insolvency and Bankruptcy Code, 2016 – Section 7 – Corporate Insolvency Resolution Process (CIRP) – Real Estate Projects – Role of Third-Party Entities – National Company Law Appellate Tribunal (NCLAT) Jurisdiction – Article 142 of the Constitution of India – The Supreme Court upheld the NCLAT’s direction to engage NBCC India Ltd., a Government of India entity, to complete 16 stalled residential projects of M/s. Supertech Limited - held that the primary consideration in insolvency proceedings involving real estate companies is to protect the interests of home buyers who have waited decades for shelter - Claims of secured creditors, operational creditors, and land authorities (Noida, Greater Noida, and Yamuna Expressway) are, for the time being, considered secondary to the delivery of units with basic amenities – Held that such an equitable mechanism, aimed at completing construction on a "war footing," does not violate the IBC and warrants protection under the umbrella of Article 142 of the Constitution.

Key Directions issued by the Supreme Court – i. Engagement of NBCC: NBCC is directed to complete the pending projects within stipulated timelines using its own resources and 70% of project receivables; ii. Protection for Home Buyers: Existing allottees shall not be subjected to any cost escalation beyond the original Builder Buyer Agreements; iii. Administrative Oversight: Constitution of an Apex Court Committee and Project-wise Court Committees to monitor progress and approve fund transfers between projects; iv. No Judicial Interference: No Court or Tribunal shall pass interim orders stopping projects commenced by NBCC; any grievances must be brought directly to the Supreme Court; v. Appointment of Amicus Curiae: Mr. Rajiv Jain, Senior Counsel, and Mr. Amarendra Kumar are appointed as *Amicus Curiae* to assist the Tribunal and monitor ongoing projects. [Paras 15-22]

WITH CIVIL APPEAL NO. 2778 OF 2025, CIVIL APPEAL NO. 2662 OF 2025, CIVIL APPEAL NO. 2648 OF 2025, CIVIL APPEAL NO. 3724 OF 2025, CIVIL APPEAL NO. 3952 OF 2025, CIVIL APPEAL NO. OF 2026, (ARISING OUT OF DIARY NO. 4654 OF 2025), CIVIL APPEAL NO. 2240 OF 2025, CIVIL APPEAL NO. 3260 OF 2025, CIVIL APPEAL NO. 2627 OF 2025, CIVIL APPEAL NO. OF 2026, (ARISING OUT OF DIARY NO. 5072 OF 2025), CIVIL APPEAL NO. 3498 OF 2025, CIVIL APPEAL NO. 2598 OF 2025, CIVIL APPEAL NO. OF 2026, (ARISING OUT OF DIARY NO. 27385 OF 2025) CIVIL APPEAL NO. OF 2026 (ARISING OUT OF DIARY NO. 28909 OF 2025)

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ORDER

1. Applications for permission to file appeal(s) are allowed.
2. Delay condoned. Leave granted.
3. These appeals arise from the judgment dated 12.12.2024 passed by the National Company Law Appellate Tribunal (for short, "NCLAT"), Principal Bench, New Delhi. The aforesaid order was passed in an interim application in Company Appeal (AT)(INS) No.406/2022, which in turn, was directed against the order dated 25.03.2022 of the National Company Law Tribunal (for short, "NCLT"), New Delhi, while admitting an application under Section 7 of the Insolvency and Bankruptcy Code, 2016 (for short, the "IBC") filed by the Union Bank of India against the corporate debtor, namely, M/s. Supertech Limited.
4. To briefly set out the factual backdrop of these appeals, the corporate debtor, M/s. Supertech Limited, is a real estate company engaged in the construction of various housing and certain commercial projects in Noida, Greater Noida, Yamuna Expressway and Gurugram, among others. The projects were launched in different years, mostly between 2010 and 2012. As the projects could not be completed, the commitment to various financial creditors was also not honoured, and one of the financial creditors, namely the Union Bank of India, initiated Section 7 proceedings under the IBC. The insolvency application having been admitted, the order of admission was challenged in an appeal before the NCLAT.
5. For the limited purpose of disposal of these matters, it may be noted that the controversy revolves around non-completion of the following 16 projects by M/s. Supertech Limited:
 - (i) Sports Village, Greater Noida.
 - (ii) Hilltown, Gurugram.
 - (iii) Romano, Noida.
 - (iv) Rivercrest, Rudrapur, Uttarakhand.
 - (v) Meerut Sports City, Meerut.
 - (vi) Green Village, Meerut.
 - (vii) Eco Village-3, Greater Noida. (viii) UP Country, Greater Noida.
 - (ix) Eco Village-2, Greater Noida.
 - (x) Araville, Gurugram.
 - (xi) Micasa, Bengaluru.
 - (xii) Czar Suits, Greater Noida.
 - (xiii) Eco-Citi, Noida.
 - (xiv) Eco Village-1, Greater Noida.
 - (xv) Capetown, Noida.
 - (xvi) North Eye, Noida.
6. Though, according to the principal appellant (management of M/s. Supertech Limited), the total residential units in these projects were approximately 40,000, learned counsel for the home buyers, however, submits that the number of such units was over 51,000. It is also asserted before us that prior to the commencement of the insolvency proceedings in the year 2022, certain units had been completed and handed over to the allottees, whereas some more units have been completed and transferred to the allottees during the pendency of these appeals before this Court, whereupon the impugned order of NCLAT came to be stayed vide order dated 21.02.2025.

7. In the appeal(s) before the NCLAT, IA No.6557/2024 was seemingly argued at length with a view to explore the mechanism for completion of 16 subject projects (except Doon Square). It seems that the desperate home buyers who have been endlessly waiting for over two decades have either contacted and/or suggested that NBCC India Ltd. be engaged to complete the pending projects. It further appears that the project management consultant and the Interim Resolution Professional (IRP), after due deliberations with NBCC, also supported the plight of the home buyers. This consequently led the NCLAT to issue various comprehensive directions in this regard, as set out in paragraph 85 of the impugned judgment. Some of the salient features of these directions are as follows:

“(1) Under TOR, paragraph 1.4 (c) Note; the Condition-I is satisfied on passing of this order. Conditions II, II V, VI be completed by all concern on or before 31.03.2025. The NBCC shall start process of award of work as per Condition-IV, prior to 31.03.2025 and complete the award of contract within one month thereafter and construction shall commence w.e.f. 01.05.2025.

(2) The statutory Authorities whose sanction is required for renewal/grant of building plan and other necessary sanctions, registration/renewal of Projects state, consider and communicate their decisions within 30 days of IRP making requisite applications.

(3) The NBCC (I) Ltd. cannot be allowed exemption from complying statutory requirements under different statutes regulating building regulations and RERA Act 2016.

(4) The Homebuyers/commercial unit holders, who have already been allotted units by the Corporate Debtor, which allotments are subsisting, shall not be subjected to any escalation of cost, except the dues which are required to be paid by them as per Builder Buyers Agreements.

(5) The purpose of NBCC for distribution of surplus as contained in Paragraph a(x) of TOR is not approved. Repayment of land Authorities, Banks and Financial Institutions shall simultaneously begin as per the date and manner decided by Apex Court Committee. The balance amount in a Project apart from 70% amount which is to be used for construction, may be used for repayment. The payment for land cost can also be debited from 70% amount as per Section 4(2)(D) of RERA Act and as per the decision of the Apex Court Committee. Any proposal for repayment of land Authorities, Banks and Financial Institutions emanating from the Project Court Committee shall require approval of Apex Court Committee for implementation.

(6) We direct for constitution of an Apex Court Committee and Project-wise Court Committee for each Project as detailed in Paragraph 78 of this order. The above Court Committees be constituted in the manner as noted in paragraph 78 and shall perform their functions as noted in paragraph 78. In the Project-wise Court Committee, NBCC (1) Ltd. shall also nominate one Member in each Project-wise Court Committee, who will be added in that Committee. After completion of constitution of Apex Court Committee and Project-wise Court Committee, IRP shall upload the constitution of Committees on the website as early as possible. The suggestions of IRP regarding constitution and functioning of above Committee is approved, subject to modification as noted above.

(7) The suggestions of IRP under Heading "B. Directions to NBCC for Implementation of construction Proposal and Mechanism for repayment of dues of stakeholders" as noted above in paragraph 79 of the order are approved.

8) The Apex Court Committee is empowered to take decision for transferring surplus amount from one Project to other Project after obtaining necessary details from concerned Project-wise Court Committee.

(9) Project-wise account be maintained in which all receivables from the concerned Project be deposited and account can be debited only with the approval of Project wise Committee/Apex Court Committee. The accounts shall be operated by joint signatories, i.e. IRP and one nominee of NBCC (I) Ltd.

(10) A separate account, in the name of "NBCC (I) Ltd. Supertech Unfinished Project" as suggested by NBCC shall be opened and operated by NBCC through its authorised signatories with joint signature of IRP. All funding and finance received by the NBCC/ Apex Court Committee for completion of the Project shall be credited in the above designated account. The above account shall be under direction and control of Apex Court Committee.

(11) NBCC shall obtain necessary finance of Rs.100 crores as suggested and deposit in the above designated account to be spent as per decision of Apex Court Committee for carrying out the Project.

(12) In reference to TOR as suggested by NBCC regarding its fee of 8% as PMC Fee, we are of the view that marketing fee of 1% as suggested shall be included in 8% fee and no separate marketing fee shall be chargeable.

(13) Directions sought for by IRP as suggested under Heading "C. Directions to various stakeholders, Lenders, Land Authorities, Promoters" are approved insofar as "C.1, C.2, C.3, C.4" are concerned (As noted in paragraphs 80, 81 and 82 of this order).

(14) The TOR as contained in IA No.6557 of 2024 (NBCC (I) Ltd. Application) as modified by revised proposal dated 11.11.2024 stand approved, subject to directions and modifications as contained in this order."

8. As per the material on record, after these directions were issued, some operational creditors sought a modification of the above-stated order to include their claims as well. The NCLAT, vide an order dated 18.03.2025, declined to pass any order on the merits of the operational creditors' claim, in light of the fact that this Court had meanwhile stayed the operation of the judgment dated 12.12.2024. This is how certain appeals in this batch are directed against a subsequent order dated 18.03.2025.

9. We have heard Mr. Shyam Divan, learned senior counsel and other learned senior counsel/counsel on behalf of the appellants, who have vehemently urged that NCLAT exceeded its jurisdiction by impleading a third-party entity, namely, NBCC, for the completion of projects. It is their case that the statutory scheme under IBC does not give NCLAT the power to entrust the project to a thirdparty entity without the consent of the original project proponent and the creditors. Their principal contention, however, is that as of now, almost 25,000 housing units have been handed over to the allottees, and if given some more time, the remaining approximately 20,000 units shall also be completed and allotted to the remaining home buyers.

10. Per Contra, learned counsel for the home buyers, who are still awaiting possession of the units, vehemently opposed the prayer and the suggestions made on behalf of M/S. Supertech Limited. All these home buyers reiterate their submission that NCLAT rightly brought in NBCC as an alternative developer to complete projects that have remained at a state of standstill for decades. We may, however, hasten to add that there is another group of home buyers, presumably those who have obtained allotment/possession of units and oppose the assignment of responsibility for project completion to the NBCC. There are other contesting respondents, namely, the statutory authorities like Noida Authority, Greater Noida Industrial Development Authority, and Yamuna Expressway Industrial Development Authority, who are also aggrieved by the order of the NCLAT as their dues as per the original terms and conditions of allotment have not been paid and in some of the cases, which led to the cancellation of the lease.

11. Mr. Raju Ramachandran, learned senior counsel and some other learned senior counsel/counsel representing the consortium of banks fairly submit that though they had supported the proposal of bringing NBCC for completion of the projects before the NCLAT, however, during pendency of these proceedings, a one-time settlement has been

proposed by M/s. Supertech Limited, which they find may ultimately have a better outcome in comparison to what was proposed or projected to be paid to them under the order passed by the NCLAT.

12. A somewhat similar stance has been taken by statutory authorities such as the Noida Authority and the Greater Noida Industrial Development Authority.

13. On the other hand, Mr. Ranjit Kumar, learned senior counsel appearing for Yamuna Expressway Industrial Development Authority, submits that since the lease of the allotment and lease in respect of the land meant for commercial and institutional projects has been cancelled, the said authority is entitled for return of the land earmarked for these projects and undertakes to develop those projects on its own.

14. We have considered the rival submissions and perused the relevant record with the able assistance of the learned senior counsel/counsel for the respective parties.

15. The primary consideration before the NCLAT and this Court is to protect the interests of home buyers and ensure they can secure a modicum of shelter comprising the residential unit for which they have been eagerly waiting for more than two decades. Their hardearned money has been emptied into the coffers of M/s. Supertech Limited, a substantial part of which appears to have unfortunately been misutilised. If that is the central consideration, it goes without saying that the other competing claims of secured creditors, operational creditors or the land owners, including Noida, Greater Noida, and Yamuna Expressway, will have to be, for the time being, considered secondary. Once the predominantly completed projects, namely residential units, are handed over to each allottee along with all basic amenities such as sewage, water supply, electricity, road access, parks, and other facilities as committed by the developer, the surplus amount can then be distributed among the other claimants using the *pari passu* principle or any other mechanism deemed fair and equitable by the NCLAT/NCLT, as the case may be. Such a recourse adopted by the NCLAT does not warrant any interference by this Court, especially when any equitable, fair, and transparent judicial order, which rightly deserves protection under the umbrella of Article 142 of the Constitution, is in place, given the peculiar facts and circumstances of this case.

16. Having observed so, we find that the order passed by the NCLAT in bringing NBCC on record for completion of the pending projects, *per se*, is neither unfair nor contrary to any express provision of the IBC. As noted earlier, the projects are intended for home buyers and having found that their projects remain incomplete for an indefinite period, they approached NBCC and/or suggested that a Government of India entity be brought into the picture to complete these 16 pending projects.

17. NBCC is represented before us by its learned senior counsel, who have given an assurance that all pending works shall be undertaken on a war footing and that the projects shall be completed within the stipulated timeline. We, thus, direct the NBCC to deploy its resources to ensure the pending projects are completed within the prescribed timeline. The Apex Committee constituted by NCLAT will also provide the requisite aid and assistance to NBCC to complete the projects.

18. At this stage, we may hasten to add that the completion of residential projects and entrustment of the allotted units to the home buyers will not cause any prejudice to the claims of Noida Authority, Greater Noida Industrial Development Authority, Yamuna Expressway Industrial Development Authority or any other housing authority or even the creditors, including the operational creditors. Those claims will be determined by the

Tribunal in due course, taking into account the prevailing circumstances, and all claims of the home buyers will be settled.

19. To ensure there is no impediment to the completion of the housing projects, it is directed that no Tribunal or Court, including the High Court, shall pass any interim order or directions stopping any project from being commenced by NBCC. If there is any grievance by any entity, they shall, however, be at liberty to approach this Court for appropriate direction.

20. In order for smooth compliance of the directions issued by the NCLAT along with those directions issued hereinabove and with a view to assist the Tribunal besides monitoring/supervision of the ongoing projects, we have requested Mr. Rajiv Jain, learned senior counsel along with Mr. Amarendra Kumar, learned counsel (Mob.8797870797) to assist the Tribunal as Amicus Curiae and submit their valuable recommendations/opinions to the Apex Committee or the Tribunal, as the case may be. In the event any other impediment arises in compliance with the directions, the learned Amicus Curiae shall be at liberty to seek further clarification from this Court.

21. The honorarium payable to the learned Amicus Curiae shall be in terms of the order dated 02.12.2025 passed in W.P. (Civil) No. 160 of 2024, and the fee payable to Mr. Amarendra Kumar, learned assisting counsel, is fixed at Rs. 1,00,000/- (Rupees One Lakh only) per month.

22. In view of the foregoing discussion, we do not find any merit in these appeals, which are accordingly dismissed. The impugned order of the NCLAT is upheld, except to the extent it has been modified/clarified hereinabove. Ordered accordingly.

23. It goes without saying that the directions issued by the NCLAT in the impugned order to the statutory authorities shall be complied with within a period of four weeks, and if such sanction/permission has expired, the same shall be renewed/revived within the above-stated period.

24. Alongside the residential projects, the integrated nonresidential projects shall also be entrusted and completed by NBCC and not by M/s. Supertech Limited. If there is any issue with respect to the assessment of the allotment price or disposal of such non-residential project, commercial units, etc., the concerned parties may submit their respective claims to the learned Amicus Curiae, who shall make the recommendations to the Apex Committee/Tribunal for adjudication thereof.

25. We are also cognizant of the fact that NBCC had serious objections to certain terms and conditions imposed by the NCLAT in the impugned order, and it is highlighted that while negotiating with the home buyers or the IRP, the NBCC did not agree to conditions that would ultimately render its proposal unviable. In this regard, we do not express any opinion; however, we grant NBCC the liberty to move an application before NCLAT and may seek clarification.

26. During the hearing, it was also pointed out that several IAs have been filed by home buyers, etc., in respect of projects other than the 16 projects that are the subject matter of these appeals. All these applications are disposed of with liberty to the applicant(s)/home buyers/other interest holders to approach the NCLT/NCLAT in the pending proceedings and seek appropriate directions.