

ITEM NO.301
(PART HEARD)

COURT NO.7

SECTION XVII-B

S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G S

CIVIL APPEAL NOS. 3811/2023

AVJ HEIGHTSS APARTMENT OWNERS ASSOCIATION

APPELLANT(S)

VERSUS

IIFL FINANCE LIMITED & ANR.

RESPONDENT(S)

IA No. 105738/2023 - EXEMPTION FROM FILING O.T.

IA No. 105737/2023 - STAY APPLICATION

WITH

C.A. NO. 4628/2026 (XVII-B)

IA No. 122548/2023 - EXEMPTION FROM FILING C/C OF THE IMPUGNED
JUDGMENT

IA No. 122547/2023 - PERMISSION TO FILE ADDITIONAL
DOCUMENTS/FACTS/ANNEXURES

IA No. 122544/2023 - PERMISSION TO FILE APPEAL

IA No. 122549/2023 - STAY APPLICATION

Date : 29-04-2026 These matters were called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE J.B. PARDIWALA
HON'BLE MR. JUSTICE K.V. VISWANATHAN

Amicus Curiae : Mr. Navin Pahwa, Sr. Adv.
Mr. Gopal Jain, Sr. Adv.

For Appellant(s) : Mr. Sanjay Singh, Adv.
Mr. Umang Shankar, AOR
Mr. Shalender Singh Negi, Adv.
Mrs. Neha Shankar Srivastava, Adv.

Mr. Zeeshan Diwan, AOR
Mr. Krishna Datta Multani, Adv.
Mr. Harsha, Adv.

For Respondent(s) :

Mr. Neeraj Kishan Kaul, Sr. Adv.
Mr. Nakul Dewan, Sr. Adv.
Mr. Angad Varma, Adv.
Mr. Nikhil Mehndiratta, Adv.
Mr. Toyesh Tewari, Adv.
Mr. Agastya Sen, Adv.
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Mr. Satendra, Adv.
For M/S. Dua Associates

Mr. Anand Padmanabhan, Sr. Adv.
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Mr. Deepak Khosla, Adv.
Mr. Pranav Sachdeva, AOR
Mr. P Rohit Ram, Adv.
Ms. Mishra Divya Santosh, Adv.
Mr. Sanyam Jain, Adv.
Ms. Khushboo Singhal, Adv.

Ms. Mani Gupta, Adv.
Mr. Harsh Parashar, AOR
Ms. Sonali Jain, Adv.
Mr. Udhav Mittal, Adv.

Mr. Namit Saxena, AOR

Mr. Madhav Singhal, Adv.
Mr. Saurav Roy, Adv.
Ms. Prerna Dhal, Adv.
Ms. Madhulika Upadhyay, AOR

**UPON hearing the counsel, the Court made the following
O R D E R**

1. By our order dated 16.04.2026, we took a serious notice of gross delay occurring in the approval of the Resolution Plan pending before the various Benches of the National Company Law Tribunal (NCLT). In such circumstances, we thought it fit to call for some

relevant information, more particularly, the number of applications pending for approval of Resolution Plans; since how long all such applications are pending; and the reasons for delay in adjudication of the approval applications. We had requested all the learned counsel appearing for the parties to provide us with the necessary information/data as regards the questions raised above. We had also requested the Registrar, NCLT, Principal Bench, New Delhi, to provide us with a report answering our queries. The Insolvency and Bankruptcy Board of India (IBBI) was also ordered to be impleaded as party respondent in the appeals before us. In the last, we requested Mr. Gopal Jain and Mr. Navin Pahwa, learned Senior Counsel to assist us as an *Amicus*.

2. Today, when the matter was taken up for further hearing, we have been provided with the relevant information/data. The picture highlighted by one and all before us is extremely green and dismal. As per the report forwarded by the Registrar of the NCLT, Principal Bench, there are 363 applications awaiting approval. The delay as sought to be explained ranges from 48 days to 738 days. In some cases, the delay is up to four years. The reasons which have been assigned by and large are lack of adequate

infrastructure, the lack of infrastructure resulting in half day sittings of the Benches, more particularly, due to interchange of combinations and large pendency of objections to the Resolution Plan filed by various parties/stakeholders. We take notice of the fact that in very few cases there are some interim orders passed by Higher Courts.

3. We have also heard Ms. Mani Gupta, learned counsel appearing for the Resolution Professional in the present matter. She has also provided us very useful information. The first thing she has highlighted is the severe shortage of Judicial and technical members. The statutory sanctioned strength of NCLT across the country is 63 members comprising one President and 31 Judicial and Technical Members each. However, we are thoroughly disappointed to state that, out of the sanctioned strength of 63, presently only 28 Judicial Members and 26 Technical Members are posted across various NCLT Benches as on 28.04.2026. There is acute shortage of ten members, which is severally affecting the efficiency of the functioning of NCLT Benches in disposal of cases within the time bound manner.

4. The second aspect highlighted is with respect to non-allocation of adequate infrastructure. Some

instances have been highlighted why the functioning had to be suspended indefinitely etc.

5. Thereafter, the learned counsel highlighted the inadequacy in technology and administrative support; and in the last, the misuse of Section 60(5) of the IBC was highlighted.

6. In due deference to our request, Mr. Navin Pahwa, learned *Amicus* has provided us very useful information. The note provided by Mr. Pahwa talks about: i) Time lines of CIRP, ii) Status of Resolution Plans, iii) General reasons for delay in decisions on on Resolution Plans, iv) Qualification and Selection of the Members of the Tribunal, v) Appointment of staff of Tribunal.

7. What has been brought to our notice by Mr. Pahwa is something very disturbing. It was pointed out to us that even the post of Registrar, barring few Benches, is filled up on contractual basis. This is something unheard of. It was also brought to our notice that none of the Benches of the NCLT have full time employees. Advertisements are published by the NCLT inviting applications for engagement to the post of Deputy Registrar purely on contractual assignment in different Benches of NCLT. All other staff including the Secretary, Court Master, Stenographers,

legal assistants are appointed on contractual basis by office of the President, NCLT. The services of all these persons contractually appointed are purely temporary and are intermittently terminated. There are issues about non-payment of salary and other allowances. Mr. Pahwa has cited one instance of a news report dated 14.01.2025 that the entire staff of NCLT Mumbai were on strike as salaries were not paid on time. He also highlighted the importance of providing each member with a research associate/legal assistant.

8. Some of the suggestions put by Mr. Pahwa are as under:

"1. The MCA, UOI be directed to recruit permanent staff for all the Benches of Tribunal including, in particular, the Court Officer, Stenographers and Research Associates/Legal Assistants.

2. Court Rooms at least equal to the number of Benches with all infrastructure be made available within defined timelines.

3. The vacancies be filled-up in defined timelines.

4. The Benches may be encouraged/persuaded to function during the entire Court hours.

5. Regular workshops and colloquiums be held in defined time lines in consultation with President/IBBI.

6. It is important that before deciding the Plan Approval Application, the NCLT should decide:-

- a) issues of eligibility u/s 29A, if any;
- b) Challenge to the admission/rejection of claims;
- c) Challenge to the constitution of CoC; expeditiously.

7. In Plan Approval Applications, as a matter of General Guidelines and instructions, following parties may be added at the initial stage itself:

- a) the CoC through lead member;
- b) suspended management;
- c) Income Tax Department in the event the Plan has a provision to carry forward of business losses as per Sec.79 of the Income Tax Act, 1961
- d) Regulators such as RERA, NOIDA Authority, etc. in case of plans concerning Home Buyers;
- e) Plan concerning telecom/ spectrum cases, the DoT may be made party.

8. The disposal of avoidance applications may not be linked to disposal of Application for Approval of Resolution Plan. Section 26 of the IBC specifically states that filing of an avoidance application under Section 25(2)(j) shall not affect the proceedings of CIRP. Regulation 37(a) already stipulates a provision to be made in the plan for transfer of all/ part of the assets of Corporate Debtor from such avoidance applications.

9. As per the mandate of Section 31(2A) (although yet to be notified), the Plan Approval Application be disposed within a period of 30 days. For achieving this, after initial period of completion of proceedings, such applications be heard on day-to-day basis in the post lunch period.”

9. Mr. Gopal Jain, learned *Amicus*, has also assisted us on the issues highlighted above. Mr. Jain submitted that in the recent amendment undertaken, Section 31(2A) has been inserted. By this amendment, now the application seeking approval has to be disposed of within a period of thirty days. Of course, this amendment has not yet come into force. But the day it comes into force, we have our own doubts whether true effect could be given to this particular amendment in light of the deficiencies which we have highlighted above.

10. National Company Law Tribunals exercise vast jurisdiction, both under the Companies Act, 2013 and under the Insolvency and Bankruptcy Code, 2016 (IBC, 2016). In the statement of objects and reasons of the IBC, 2016, the following has been set out:

“2. The objective of the Insolvency and Bankruptcy Code, 2015, is to consolidate and amend the laws relating to reorganization and insolvency resolution of corporate persons, partnership firms

and individuals in a time bound manner for maximization of value of assets of such persons, to promote entrepreneurship, availability of credit and balance the interests of all the stakeholders including alteration in the priority of payment of government dues and to establish an Insolvency and Bankruptcy Fund, and matters connected therewith or incidental thereto. An effective legal framework for timely resolution of insolvency and bankruptcy would support development of credit markets and encourage entrepreneurship. It would also Improve Ease of Doing Business, and facilitate more investments leading to higher economic growth and development."

(Emphasis supplied)

11. In the state of affairs that are presently prevailing, the objective of time bound resolution is impossible to achieve. IBC, 2016, is a crucial piece of economic legislation, which impacts the credit system as well as the economy itself in general in a very big way. The very purpose of introducing the IBC, 2016 was on account of the fact that the system that was provided earlier under the Sick Industrial Companies Act, 1985, turned out to be a total failure. From a promoter driven resolution under the SICA on the advise of expert Committees, (reports like the T.K. Viswanathann Committee and the Injeti Srinivas Committee), a shift was brought about to make Insolvency Resolution a creditor driven process. Thousands of Crores of Rupees are at stake. The whole

idea was to sustain companies which were going down the drain on account of various factors and keep companies afloat as a going concern, so that the economy is kept on its wheels and the labour is protected.

12. We take *suo moto* cognizance of the aforesaid in larger public interest. We believe that all the issues as aforesaid need to be addressed on a war footing, otherwise the very purpose and object of enacting the IBC would stand frustrated.

13. As we have taken *suo moto* cognizance, let the matter be now placed before Hon'ble the Chief Justice of India for further orders. The Registry shall, at the earliest, place this order before Hon'ble the Chief Justice of India.

14. Insofar as the merits of the appeals are concerned, we shall await for the appropriate orders that Hon'ble the Chief Justice of India may pass.

15. We are grateful to all the learned counsel appearing in this litigation for assisting us by providing the relevant information, more particularly, Mr. Navin Pahwa and Mr. Gopal Jain, learned Senior Counsel, whom we have appointed as *Amicus Curiae* to assist us.

16. We also place on record our gratitude for Ms. Mani

Gupta, learned counsel appearing for the Resolution Professional, for producing a very exhaustive report on all the relevant aspects of the matter.

(POOJA SHARMA)
AR-CUM-PS

(POOJA SHARMA)
COURT MASTER (NSH)