

IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO.9062/2022

INDIABULLS HOUSING FINANCE LTD. APPELLANT

VERSUS

IIRF INDIA REALTY XII LTD. & ORS. RESPONDENTS

O R D E R

Taken on Board.

This is an appeal by respondent No.1/original appellant in CA No.7050/2022.

Issue notice.

Notice is accepted by learned counsel for the respondent.

We have heard learned counsel for parties in this appeal along with hearing Miscellaneous Application No.2064/2022 in Civil Appeal No.7050/2022.

The appeal seeks to assail the order dated 06.12.2022 by which the status quo order passed by

a Bench of National Company Law Appellate Tribunal (NCLAT). This was in a proceeding relating to removal of the Resolution Professional and his replacement by another Resolution Professional.

We may notice that in the Civil Appeal No.7050/2022 which was already disposed of by us certain directions were passed for the monies to be deposited and sale deeds to be executed.

We fail to appreciate how a *status quo* order could have been passed by a Bench of the NCLAT seeking to impede the implementation of the order of this Court. If there was a grievance about the implementation of the order of the Court, only this Court could have got into it. We consider the conduct of the Bench not only inappropriate but almost bordering on contempt.

We strongly deprecate the order passed by the NCLAT Bench.

We thus, set aside the order of *status quo* in those proceedings and insofar as that appeal i.e. Company Appeal (AT) (INS.) No.1472/2020, is concerned, the same be placed before a Bench presided over by the Chairman.

The Civil Appeal accordingly stands disposed
of.

.....J.
[SANJAY KISHAN KAUL]

.....J.
[ABHAY S. OKA]

NEW DELHI;
DECEMBER 12, 2022.

ITEM NO.27+39

COURT NO.2

SECTION XVII

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS

Miscellaneous Application No. 2064/2022 in C.A. No. 7050/2022

KALPATARU PROPERTIES PVT. LTD.

Petitioner(s)

VERSUS

INDIABULLS HOUSING FINANCE LTD.

Respondent(s)

IA No. 179450/2022 - APPLICATION FOR PERMISSION

IA No. 179453/2022 - INTERVENTION/IMPLEADMENT

IA No. 179449/2022 - RECALLING THE COURTS ORDER

IA No. 187715/2022 - RECALLING THE COURTS ORDER

ITEM NO.39

MA NO.2129/2022 IN CA NO.7050/2022

WITH

CIVIL APPEAL NO.9062/2022

Date : 09-12-2022 These matters were called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE SANJAY KISHAN KAUL
HON'BLE MR. JUSTICE ABHAY S. OKA

For Petitioner(s) Mr. Mukul Rohatgi, Sr. Adv.
 Mr. Parag Tripathi, Sr. Adv.
 Mr. Mahesh Agarwal, Adv.
 Mr. C. Rashmikant, Adv.
 Mr. Sunil Mittal, Adv.
 Ms. Anu Tiwari, Adv.
 Mr. Arshit Anand, Adv.
 Ms. Geetika Sharma, Adv.
 Ms. Mishika Bajpai, Adv.
 Ms. Namrata Shah, Adv.
 Ms. Nidhi Malhotra, Adv.
 Mr. Praveen Dhage, Adv.
 Mr. Kyus Modi, Adv.
 Mr. Sudhir Kumar, Adv.
 Mr. Shamant Satiya, Adv.
 Mr. E. C. Agrawala, AOR

 Mr. Vikas Singh, Sr. Adv.
 Mr. Mohd. Shahan, Adv.
 Mr. Abhijeet Sinha, Adv.

 Mr. K.V. Viswanathan, Sr. Adv.
 Mr. Siddhant Buxy, AOR
 Ms. Priyanka Vora, Adv.
 Mr. Ativ Patel, Adv.

Mr. Anirban Bhattacharya, Adv.
Krishna Sumanth, Adv.

Mr. K. Venugopal, Sr. Adv.
Mr. Dhruvad Vaghani, Adv.
Ms. Anshula Grover, Adv.
Ms. Nitika Grover, Adv.

Mr. Vikram Nankani, Sr. Adv.
Mr. Ashish Batra, AOR

For Respondent(s)	Mr. Mahfooz A. Nazki, AOR
R-2	Mr. Polanki Gowtham, Adv.
MA 2064/2022 &	Ms. Niti Ricchariya, Adv.
MA 2129/2022	Mr. Naveen Sharma (Bhardwaj), Adv.
	Ms. Rajeswari Mukherjee, Adv.

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

CIVIL APPEAL NO.9062/2022

Taken on Board.

The Civil Appeal stands disposed of in terms of
the signed order.

Pending application(s) stand(s) disposed of.

Miscellaneous Application No.2064/2022 IN C.A. No.
7050/2022

We have heard learned counsel for parties at
length.

What emerges is that in the proceedings before
the NCLAT in Company Appeal (AT)(Insolvency)
No.880/2021 an order was passed on 26.09.2022. The
matter was being adjourned apparently repeatedly and
that is what persuaded the appellant in the Civil
Appeal before us to approach this Court. The counsel
stated that the appellant before us being the
appellant before the NCLAT seeks to withdraw the

appeal on the deposit of certain amounts by respondent No.1. It is this what persuaded us to accept the request and dispose of even the Company Appeal pending before the NCLAT as nothing would survive in view of the withdrawal by the appellant itself.

The present appellant before us is actually an intervener before the NCLAT. He seeks to make a grievance that the order passed by the NCLT which was in appeal before the NCLAT, he also had some grievances. On our query, he concedes that he did not file an appeal against the order of the NCLT. That being the position, his status as claimed before the NCLAT was of an intervener. Learned senior counsel submits that at least he should have been given liberty to be heard even as the status as an intervener before the NCLAT.

We do believe that this controversy should be resolved by the NCLAT itself i.e. whether on the appellants seeking to withdraw the appeal, there can be any impediment in withdrawal of the appeal and is the NCLAT really required to comment on the merits of the order of the NCLT at the behest of an intervener. We further make it clear that we are not expanding the array of parties before the NCLAT as a number of entities seems to have jumped into the picture as the matter has gone on before this Court. We make it

clear that only the parties/existing interventionist before the NCLAT will have the right of hearing.

In view of the orders passed in Civil Appeal No.9062/2022, this appeal will also to be listed before the Bench presided over by the Chairman.

In view thereof, the final picture which would emerge would be before the NCLAT and to that extent the order passed by us on 14.11.2022 would be kept in abeyance till the NCLAT resolves the issue.

List on 07.02.2023.

MA NO.2129/2022 IN CA NO.7050/2022

List on list on 07.02.2023, by which time we are sure that the NCLAT will be able to bestow its consideration.

(ASHA SUNDRIYAL)
ASTT. REGISTRAR-cum-PS

(POONAM VAID)
COURT MASTER (NSH)

[Signed order in Civil Appeal No.9062/2022 is placed on the file]