

## LEGAL UPDATES

### **NCLT-ORDER GIVING HOMEBUYERS TIME TO FILE OBJECTIONS TO PRE-PACKAGED INSOLVENCY APPLICATION WAS UPHeld BY NCLAT**

The NCLAT dismissed the appeal that challenged the NCLT order that granted a week to the objectors to file their objections while considering an application of the pre-packaged insolvency resolution process ('PPIRP') under section 54C of the IBC; as a result, the NCLT was not in error.

Noting that serious charges have been raised in the objections and that the objectors who have appeared before NCLT have significant stakes because they are all homebuyers or allottees and have paid a sizable sum to the Appellant Corporate Debtor.

According to NCLAT, no exceptions can be made given there is a serious concern that pre-packaged insolvency resolution processes are mandatorily handled as per compliance with the legal process.

The appellant pleaded that -

- (i) A PPIRP application under Section 54C was outside the purview of NCLT, and
- (ii) PPIRP must be completed within a specified time frame, and the plan as outlined by Chapter III-A and the IBBI (Pre-packaged Insolvency Resolution Process) Regulations, 2021, does not provide for the objectors to raise objections prior to the application's admission;

As a result, The Hon'ble NCLAT ruled that *"When there is no prohibition in hearing an objector or interveners by the Adjudicating Authority, the orders passed by the Adjudicating Authority giving time to the objectors to file objection cannot be said to be in violation of any statute."*

It further noted, among other things, that the Scheme under Chapter III-A does not contain any express provision either prohibiting NCLT from hearing any of the objectors or giving notice of hearing to the interveners/objectors.

However, it emphasised that *"...hearing of objectors or interveners in each case where a pre-packaged insolvency resolution process application has been submitted is not a matter of course and needs to be restricted to exceptional situations..."* while maintaining the NCLT ruling. The Adjudicating Authority must apply sound discretion in order to give time to objectors and interveners in proceedings under the "I&B Code," which is subject to strict time constraints.