



**IN THE NATIONAL COMPANY LAW TRIBUNAL
MUMBAI BENCH - I**

**C.P. (IB) NO. 794/MB/2025,
IVN.P (IBC)/22(MB) 2026 & IA
(I.B.C)/502(MB)2026**

Under Section 94 of the Insolvency and Bankruptcy Code, 2016 r/w rule 6 of the Insolvency & Bankruptcy (Application to Adjudicating Authority for Insolvency Resolution Process for Personal Guarantors to Corporate Debtors) Rules 2019.

In the matter of

**MRS. VANDANA RAVINDRA
CHAUDHARI***(Personal Guarantor
of Heera Ind Trading Pvt. Ltd.)*

... Personal Guarantor/
Petitioner

versus

UNION BANK OF INDIA

...Respondent/Financial
Creditor

Order pronounced on 02.06.2026



Coram:

Hon'ble Member (Judicial) : **Sh. Sushil Mahadeorao**

Kochey

Hon'ble Member (Technical) : **Sh. Prabhat Kumar**

Appearances:

For the Resolution Professional : Mr. Avinash Khanolkar

For the Personal Guarantor : Mr. Prashant Thakre

For the Applicant in Intervention

Petition 22 of 2026 : Mr. Devul Dighe

For the Financial Creditor/Union

Bank of India : Mr. Viraj Parikh

ORDER

Brief facts:

1. The present Company Petition has been filed on 9.6.2025 by Mrs. Vandana Ravindra Chaudhari (hereinafter referred to as the “Petitioner” or the “Personal Guarantor”), who is the Personal Guarantor to the Corporate Debtor, namely Heera Ind Trading Pvt. Ltd. (hereinafter referred to as the “Corporate Debtor” or the “Principal Borrower”), under Section 94 of the Insolvency and Bankruptcy Code, 2016 (hereinafter referred to as “the Code”) read with Rule 6(1) of the Insolvency and Bankruptcy (Application to Adjudicating Authority for Insolvency Resolution Process for Personal Guarantors to Corporate Debtors) Rules, 2019 (hereinafter referred to as “the Rules”), seeking initiation of the Insolvency Resolution Process against herself in the capacity of Personal Guarantor to the Corporate Debtor.
2. The Petitioner is an Indian resident residing at Flat No. 201, EL Castillo, Plot No. 23, Sector 6, Palm Beach Road, Nerul West, Navi Mumbai, Nerul



Node-3, Thane, Maharashtra – 400706.

3. It is submitted that the Petitioner has executed personal guarantees in favor of the lenders of the Corporate Debtor, namely Heera Ind Trading Pvt. Ltd., a company limited by shares and incorporated on 03.04.2012 under the provisions of the Companies Act, bearing CIN: U52100MH2012PTC230417 and having its registered office at CSN 570/A, Krida Bhavan, Nandurbar, Nandurbar, Maharashtra – 424001.
4. As stated in Part III of the Petition, the total amount claimed to be in default is Rs. 49,33,11,763.61/- (Rupees Forty-Nine Crore Thirty-Three Lakhs Eleven Thousand Seven Hundred Sixty-Three and Sixty-One Paise only)

Submissions of the Petitioner:

5. It is submitted that the Respondent Bank had sanctioned various credit facilities in favour of the entities forming part of the Heera Group of Companies, including the following facilities:
 - (i) Cash Credit (Takeover) facility of Rs. 40,00,00,000/- sanctioned on 26.08.2019 in favour of Heera Ind Trading Pvt. Ltd.;
 - (ii) Covid Emergency Line facility of Rs. 4,00,00,000/- sanctioned on 24.07.2020 in favour of Heera Ind Trading Pvt. Ltd.;
 - (iii) Working Capital Term Loan facility of Rs. 7,40,00,000/- sanctioned on 24.11.2021 in favour of Heera Ind Trading Pvt. Ltd.;
 - (iv) UGECL Term Loan facility of Rs. 1.28 Crores sanctioned on 28.05.2021 in favour of Heera Hospitality Pvt. Ltd.;
 - (v) Cash Credit (Takeover) facility of Rs. 45,00,00,000/- sanctioned on 26.08.2019 in favour of Pratham Heera Sales Pvt. Ltd.; and



(vi) UGECL Term Loan facility of Rs. 9,00,00,000/- sanctioned on 24.11.2021 in favour of Pratham Heera Sales Pvt. Ltd.

6. The Petitioner has further submitted that the authorised signatories of the Heera Group of Companies had executed the requisite security and loan documents on behalf of the respective companies in the years 2019 and 2021 in respect of the aforesaid credit facilities.
7. It is submitted that the Personal Guarantor had executed a Deed of Guarantee dated 27.09.2019 in favour of Union Bank of India, thereby guaranteeing repayment of the credit facilities availed by the Corporate Debtor to the extent of Rs. 45,00,00,000/-. Under the said Deed of Guarantee, the Personal Guarantor is stated to have unequivocally undertaken to repay the outstanding dues on demand in the event of default committed by the Corporate Debtor in servicing or repaying the said facilities.
8. The Petitioner submits that, owing to persistent defaults in repayment of the sanctioned loan facilities, the loan account of Heera Ind Trading Pvt. Ltd. was classified as a Non-Performing Asset (NPA) on 16.04.2023. It is further submitted that the loan accounts of Heera Hospitality Pvt. Ltd. and Pratham Heera Sales Pvt. Ltd. were also classified as Non-Performing Assets (NPA) on 10.04.2023.
9. It is further submitted that the Respondent Bank had issued demand notices dated 24.04.2023 under Section 13(2) of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 ("SARFAESI Act") to the entities forming part of the Heera Group of Companies, calling upon them to discharge their outstanding liabilities within a period of 60 days from the date of receipt of the said notices.
10. The Petitioner further submits that the Respondent Bank had thereafter initiated measures under Section 13(4) of the SARFAESI Act on



02.09.2023. In the aforesaid circumstances, the present Petition has been filed under Section 94 of the Code.

11. Vide Order dated 20.08.2025, this Bench appointed Ms. Neha P. Agrawal, bearing Insolvency Professional Registration No. IBBI/IPA-002/IP-N01130/2021-2022/13728, as the Resolution Professional (“RP”) in the present matter and directed the RP to submit a report under Section 99 of the Insolvency and Bankruptcy Code, 2016. Pursuant thereto, the RP has filed her report vide IA (I.B.C.) No. 9999/MB/2025, recommending admission of the present application filed under Section 94 of the Code. The relevant findings and observations contained in the said report are reproduced hereunder:

In view of the above, and having considered the petition, additional affidavit, and documentary record, it is submitted that the objections of the Financial Creditor stand duly addressed. The requirements of Section 94 are satisfied, and the petition merits admission. The undersigned Resolution Professional, as appointed by the NCLT Mumbai, is of the considered opinion that the present company petition (C.P. (IB) 794(MB)2025) deserves to be admitted, and the Personal Insolvency Resolution Process should be initiated against Mrs. Vandana Ravindra Chaudhari, as the requirements under Section 94 of the IBC and related Rules are satisfied. The matter may proceed for further steps as per the Code

12. The Financial Creditor, namely Union Bank of India, has filed IA (I.B.C.) No. 502(MB)2026, inter alia, seeking rejection of C.P. (IB) No. 794(MB)2025 filed by the Personal Guarantor under Section 94 of the Insolvency and Bankruptcy Code, 2016, contending that the present Petition has been filed solely with a view to misuse the provisions of the Code and to avail the benefit of moratorium without any bona fide intention to resolve the outstanding debt or arrive at any settlement with the creditors.



13. It is further prayed that the secured asset, being Flat No. 201, 2nd Floor, Plot Nos. 23/B and 23/C, Sector-6, “El Castillo”, Palm Beach Road, Nerul (West), Navi Mumbai, Maharashtra – 400706, jointly owned by Mrs. Vandana Ravindra Chaudhari and Mr. Ravi Hiralal Chaudhari, admeasuring 3314.98 sq. ft. carpet area, be excluded from the scope of the Personal Insolvency Resolution Process (“PIRP”) initiated against the Personal Guarantor.

Submissions of the Financial Creditor & Personal Guarantor in IA (I.B.C.) No. 502/2026:

14. It is submitted that the Financial Creditor had extended various credit facilities to M/s Heera-Ind Trading Private Limited, M/s Heera Hospitality Private Limited, and M/s Pratham Heera Sales Private Limited (collectively referred to as the “Heera Group”), and had also sanctioned a housing loan to Personal Guarantor (“R1”) on different dates. It is further submitted that R1 had executed personal guarantees in favour of the Financial Creditor in respect of the aforesaid corporate borrowers and had also created security interest, including mortgage over the residential property bearing Flat No. 201, 2nd Floor, Plot Nos. 23/B & 23/C, Sector-6, “El Castillo”, Palm Beach Road, Nerul (West), Navi Mumbai, Maharashtra – 400706, jointly owned by Mrs. Vandana Ravindra Chaudhari and Mr. Ravindra Hiralal Chaudhari, admeasuring 3314.98 sq. ft. carpet area (hereinafter referred to as the “said Property”).

15. It is further submitted that the said Property was offered as a common secured asset in respect of all the aforesaid loan accounts.

16. The Financial Creditor submits that M/s Heera-Ind Trading Private Limited committed defaults in repayment of its outstanding dues, including interest, from 16.04.2023, pursuant to which the account was classified as a Non-Performing Asset (“NPA”) on the same date. It is further submitted that the accounts of M/s Heera Hospitality Private



Limited and M/s Pratham Heera Sales Private Limited were also classified as NPA on 10.04.2023.

17. It is submitted that thereafter, demand notices under Section 13(2) read with Section 13(3) of the SARFAESI Act, 2002 were issued to the entities forming part of the Heera Group as well as the Personal Guarantors, including R1, calling upon them to repay the outstanding liabilities within 60 days from the date of receipt of the notices.
18. Upon failure to repay the outstanding dues, the Financial Creditor states that symbolic possession of the said Property was taken on 02.09.2023 under the provisions of the SARFAESI Act, which possession notice was subsequently published in newspapers on 06.09.2023.
19. It is further submitted that the Financial Creditor also initiated proceedings under Section 14 of the SARFAESI Act before the Learned Chief Judicial Magistrate, Thane, by filing Criminal Miscellaneous Application No. 1223/2024 seeking assistance in taking physical possession of the secured asset. It is submitted that the Learned Chief Judicial Magistrate, Thane allowed the said application and appointed Adv. Ankita Shantaram Patil as Court Commissioner for taking possession of the secured asset.
20. The Financial Creditor further submits that several attempts were made to auction/sell the secured asset, though the earlier auction proceedings had failed. It is submitted that a Sale Notice dated 09.05.2025 was thereafter issued intimating the proposed sale of the secured asset and that the final e-auction conducted on 30.05.2025 was successful. According to the Financial Creditor, consequent thereto, third-party rights came to be created in favour of the successful auction purchaser.
21. It is further submitted that efforts were also undertaken to arrive at a One-Time Settlement (“OTS”); however, the same could not materialise. In the aforesaid backdrop, the Financial Creditor contends that the present petition under Section 94 of the Code has been filed by the Personal



Guarantor only after the successful conclusion of the auction proceedings and immediately prior to issuance of the Sale Certificate, solely with an intention to thwart the SARFAESI proceedings which had already reached an advanced stage. It is alleged that the provisions of Section 94 of the Code have been invoked merely to secure the benefit of interim moratorium and to stall recovery proceedings, without any bona fide intention to resolve the outstanding debt.

22. The Financial Creditor further submits that a Sale Certificate dated 20.06.2025 for an amount of Rs. 9,12,25,000/- has already been issued in favour of the successful auction purchaser.

23. It is also submitted that the Personal Guarantor had filed S.A. No. 363 of 2025 along with I.A. No. 2267 of 2025 before the Debts Recovery Tribunal, Mumbai, informing the Tribunal about the filing of the present petition under Section 94 of the Code and the operation of interim moratorium. Pursuant thereto, the Learned Presiding Officer of the DRT has stayed further proceedings despite the SARFAESI measures having substantially progressed.

24. The Financial Creditor has also raised objections with regard to the report submitted by the Resolution Professional under Section 99 of the Code. The grievances of the Financial Creditor against the Resolution Professional are summarised as follows:

- a. The Resolution Professional failed to consider that as many as nine e-auction proceedings were conducted by the Financial Creditor during the period from February 2024 till December 2024 in respect of the secured asset;
- b. The Resolution Professional further failed to take into account the issuance/publication of the Sale Notice dated 09.05.2025 and the successful e-auction conducted thereafter, pursuant to which third-party rights had allegedly crystallised in favour of the



auction purchaser, as well as the consequential issuance of the Sale Certificate.

25. Apart from the above, the Financial Creditor has contended that the secured asset forming the subject matter of the Sale Notice dated 09.05.2025 is jointly owned by R1 along with Mr. Ravindra H. Chaudhari. It is submitted that, in such circumstances, the Resolution Professional or Bankruptcy Trustee would not be in a position to effectively deal with or liquidate the said asset during the insolvency/bankruptcy process. It is further contended that the secured asset, having already been sold to the auction purchaser on 30.05.2025, i.e., prior to filing of the present petition under Section 94 of the Code on 09.06.2025, ought to be excluded from the ambit of the present Personal Insolvency Resolution Process.

26. The Personal Guarantor has filed a reply affidavit opposing IA (I.B.C.) No. 502/2026 and denying the contentions raised by the Financial Creditor. It is submitted that though the Financial Creditor conducted the e-auction on 30.05.2025, the sale transaction did not attain finality or completion in view of the commencement of interim moratorium in respect of the debts of Respondent No. 1 with effect from 09.06.2025. It is further submitted that the classification of the loan accounts as Non-Performing Assets ("NPA") has also been challenged by the respective borrowers before the Hon'ble Debts Recovery Tribunal and the same is presently pending adjudication.

27. The Personal Guarantor further submits that, although the auction conducted on 30.05.2025 was successful, the sale pursuant thereto was never completed in accordance with the provisions of the SARFAESI Act, 2002 read with the Security Interest (Enforcement) Rules, 2002. It is contended that, as on date, no valid third-party rights have crystallised in respect of the secured asset.

28. It is specifically contended that the present petition under Section 94 of



the Code was filed on 09.06.2025 and that thereafter the Personal Guarantor took prompt steps to cure all office objections and defects. It is further submitted that all requisite particulars and documents were duly furnished to the Resolution Professional upon her appointment by this Tribunal. According to the Personal Guarantor, no adjournments were sought at any stage and the Petition has been prosecuted diligently. On the aforesaid basis, it is contended that the allegation of the Financial Creditor that the Petition was filed merely to enjoy the benefit of interim moratorium is wholly misconceived.

29. The Personal Guarantor has further submitted that the Sale Certificate allegedly issued by the Financial Creditor came to be issued during the subsistence of the interim moratorium and is therefore non est in the eyes of law. It is contended that the assertion of the Financial Creditor that the sale stood concluded and third-party rights had been created is false and misleading. It is further submitted that the very same secured asset was also the subject matter of proceedings before the Hon'ble Bombay High Court in Writ Petition No. 11132 of 2025 filed by M/s Arrow Business Development Consultants seeking possession of the secured asset on the basis of its alleged status as auction purchaser.
30. It is submitted that, by Judgment dated 10.12.2025 passed in the aforesaid Writ Petition, the Hon'ble Bombay High Court rejected the contention of the Bank as well as the auction purchaser and observed that the sale cannot be said to have attained finality unless a Sale Certificate is issued in accordance with law. It is further submitted that the said Judgment has been challenged before the Hon'ble Supreme Court, which, vide Order dated 02.02.2026, has directed the parties to maintain status quo.
31. The Personal Guarantor has also submitted that the prayer seeking exclusion of the secured asset from the ambit of the Personal Insolvency Resolution Process does not warrant consideration by this Bench in view of Section 110 of the Insolvency and Bankruptcy Code, 2016, which



preserves the right of a secured creditor to realise or otherwise deal with its security interest outside the Insolvency Resolution Process in accordance with law.

Submissions made by the Resolution Professional in response to the Interlocutory Application:

32. The Resolution Professional (“RP”), in response to IA (I.B.C.) No. 502/2026, has submitted that she has duly discharged her statutory obligations by placing before this Tribunal all material and relevant facts necessary for effective adjudication of the application filed under Section 94 of the Insolvency and Bankruptcy Code, 2016. It is submitted that the report filed under Section 99 of the Code is in the nature of a neutral and recommendatory compilation based upon verified disclosures and ought not to be construed as a determination of disputed questions of fact or law. According to the RP, her role under the Code is facilitative and administrative in nature, and the inclusion of the relevant facts and circumstances in the report is in furtherance of the statutory mandate of transparency, completeness, and assistance to the Adjudicating Authority in the exercise of its jurisdiction.
33. The RP has further submitted that the extent, scope, and legal implications of the interim moratorium under Section 96 of the Code, particularly in relation to proceedings initiated under the SARFAESI Act, auction proceedings undertaken by the secured creditor, and other enforcement measures against the Personal Guarantor or the secured asset, involve complex and disputed questions of law and fact which fall exclusively within the adjudicatory domain of this Tribunal and other competent judicial fora. It is submitted that the RP neither possesses adjudicatory powers nor is statutorily obligated to render any determinative finding regarding the interplay between the interim moratorium and parallel recovery/enforcement proceedings. Accordingly, the RP submits that she has consciously refrained from expressing any binding or conclusive



opinion on the effect of Section 96 of the Code upon the rights and remedies of the Financial Creditor.

34. It is further submitted that the reference to the interim moratorium in the report submitted under Section 99 is purely descriptive, statutory, and facilitative in nature, intended only to reflect the legal consequences arising upon filing of the application under Section 94 of the Code. The RP reiterates that the determination of the scope and effect of the interim moratorium, including its impact upon actions initiated by the Financial Creditor, is a matter requiring judicial adjudication and that the report ought not to be interpreted as expressing any opinion beyond its limited statutory purpose.

35. On the aforesaid basis, the RP has submitted that the allegations made in the Interlocutory Application, insofar as they attribute adjudicatory findings or conclusions to the RP beyond the scope contemplated under Section 99 of the Code, are misconceived, legally untenable, and liable to be rejected.

Findings:

36. Heard learned counsel for the Petitioner. Perused records. Also perused report placed on record by the Resolution Professional.
37. It may be noted that under section 128 of Indian Contract Act, 1872, when a default is committed, the Principal Borrower and Surety are jointly and severally liable to Creditor and Creditor has the right to recover its dues from either of them or both of them simultaneously. For benevolent reference, the said section of Indian Contract Act, 1872 is reproduced below:

“The liability of the surety is co-extensive with that of the principal debtor, unless it is otherwise provided by the contract.”



38. The Deed of Guarantee is a continuing guarantee in terms of its express stipulations. The present application has been filed by the Personal Guarantor himself under Section 94 of the Insolvency and Bankruptcy Code, 2016, wherein the personal guarantor has acknowledged his liability to pay, accordingly, such admission amounts to an acknowledgment of debt within the meaning of Section 18 of the Limitation Act, 1963. Consequently, the question of limitation does not arise in the facts and circumstances of the present case.
39. The Petitioner has also filed a duly sworn Affidavit affirming that the Applicant does not fall within any of the disqualifications contemplated under Section 94(4) and Section 94(5) of the Insolvency and Bankruptcy Code, 2016
40. Upon consideration of the pleadings, documents placed on record, and the rival submissions advanced by the parties, it appears that the principal contention of the Financial Creditor is that the present application under Section 94 of the Insolvency and Bankruptcy Code, 2016 has been filed fraudulently and with the sole object of misusing the benefit of interim moratorium under Section 96 of the Code. It is further contended that the principal asset likely to form part of the Personal Insolvency Resolution Process, namely the secured property being Flat No. 201, 2nd Floor, Plot Nos. 23/B & 23/C, Sector-6, “El Castillo”, Palm Beach Road, Nerul (West), Navi Mumbai, Maharashtra – 400706, already stands sold pursuant to the auction proceedings conducted by the Financial Creditor and that third-party rights have consequently crystallised in respect thereof.
41. At the outset, insofar as the controversy regarding creation of third-party rights in respect of the secured asset is concerned, it is noted that the said issue is presently sub judice before the Hon’ble Supreme Court in proceedings arising out of the Judgment of the Hon’ble Bombay High Court. In such circumstances, this Tribunal is of the considered view that



it would be inappropriate to render any conclusive finding on the issue while the matter is pending consideration before the Hon'ble Supreme Court. Nevertheless, it remains undisputed that the said property constitutes a secured asset furnished in relation to the financial assistance granted to the Corporate Debtor and forms part of the security backing the personal guarantee executed by the Personal Guarantor.

42. It is further pertinent to note that even upon admission of the present application under Section 94 of the Code, the rights of the secured creditor in respect of the secured asset are not extinguished. Section 110 of the Insolvency and Bankruptcy Code, 2016 expressly preserves the right of a secured creditor to realise or otherwise deal with its security interest outside the Personal Insolvency Resolution Process, in accordance with law. Therefore, the apprehension expressed by the Financial Creditor with regard to the inclusion of the secured asset in the PIRP proceedings does not, by itself, constitute a sufficient ground to reject the present petition.
43. Moreover, the Hon'ble Bombay High Court, while dealing with the dispute concerning the secured asset, has prima facie observed that the sale and consequent creation of third-party rights had not attained finality in view of the operation of interim moratorium. It is true that the said Judgment is presently under challenge before the Hon'ble Supreme Court and that the Hon'ble Supreme Court has directed maintenance of status quo in respect of the secured asset. However, the effect of such status quo order is confined to the question as to whether the secured property would ultimately form part of the assets in the Personal Insolvency Resolution Process upon admission of the petition. The said controversy, in the considered opinion of this Tribunal, does not have any determinative bearing upon the limited issue presently under consideration, namely, whether the petition filed under Section 94 of the Code satisfies the statutory requirements for admission.
44. The principal contention advanced by the Financial Creditor is that the



present petition under Section 94 of the Insolvency and Bankruptcy Code, 2016 has been filed fraudulently and solely with the object of misusing the benefit of interim moratorium under Section 96 of the Code and frustrating the recovery proceedings initiated under the SARFAESI Act.

45. It has been specifically contended that the final e-auction in respect of the secured asset was conducted on 30.05.2025, whereas the present petition under Section 94 came to be filed on 09.06.2025, immediately prior to issuance of the Sale Certificate. According to the Financial Creditor, the timing and surrounding circumstances of the filing of the petition clearly indicate an attempt on the part of the Personal Guarantor to defeat and obstruct the SARFAESI proceedings.
46. In support of the aforesaid contention, Learned Counsel appearing for the Financial Creditor has placed reliance upon the decisions rendered in *Alok Parasrampuria v. Asset Reconstruction Company (India) Ltd. & Ors.*, 2025 NCLT (Jaipur); *Saurabh Bharat Bhushan Jain v. State Bank of India & Ors.*, 2025 NCLT (Ahmedabad); and *South Indian Bank Ltd. v. K.C. Mohanan*, 2025 NCLT (Chennai). It is submitted that in all the aforesaid matters, the Adjudicating Authorities had rejected applications filed under Section 94 of the Code upon recording findings that the petitions had been instituted at a stage when the SARFAESI proceedings were on the verge of culmination and after repeated attempts by the applicants to stall or delay the recovery proceedings.
47. We have carefully considered the aforesaid precedents relied upon by the Financial Creditor. It is evident from the factual matrix of those cases that the conduct of the respective applicants therein clearly demonstrated a consistent pattern of abuse of process, with repeated attempts to invoke various legal proceedings solely for the purpose of delaying recovery actions and securing the benefit of moratorium under Section 96 of the Code.



48. It is undisputed fact that the auction of the mortgaged property owned by the Personal Guarantor was concluded on 30.5.2025; the consideration was paid by the successful buyer on 20.6.2025 leading to issuance of sale certificate on 20.6.2025; the said sale consideration was paid within the prescribed period of time; and the present petition was filed on 9.6.2025. The Union Bank of India conducted first auction of the mortgaged property on 14.2.2024 after taking action in terms of section 13(4) of SARFAESI Act on 2.9.2023, and thereafter issued 8 further notice(s) for auction of the mortgaged property after failure of first auction and subsequent auctions, the last auction was scheduled on 27.12.2024. However, all these auction efforts failed, and the Financial Creditor issued a 15 days Sale Notice on 9.5.2025 informing about the sale of the Assets in accordance with the Rule 8 of the Security Interest (Enforcement) Rules, 2002, which resulted into auction of the property on 30.5.2025. It is at this juncture, the personal guarantor, after realising that the mortgaged asset has been auctioned, woke up and considered insolvency resolution process for himself. These facts only demonstrate that such act was intended to scuttle the concluded auction process by taking shelter of moratorium in terms of section 96 of IBC consequent to filing of present petition. These facts can not lead to a conclusion that the present petition is bona-fide attempt to seek resolution of insolvency of the personal guarantor.
49. In the matter of ***Ashwani Kumar Oberoi v. State Bank of India and Ors., (2026) ibclaw.in 635 NCLAT*** (delivered on 8.5.2026), the Hon'ble NCLAT, on similar facts, held as under:

“14. Reverting to the facts of the present case, it is seen that notice under Section 13(2) was issued on 31.12.2019 and thereafter Bank also enforced its rights under Section 13(4) by issuing possession notice. Notice for sale of the assets dated 19.03.2024 was issued fixing 11.04.2024 for the sale of the assets by e-auction. E-auction



was held on 11.04.2024 and auction was also confirmed by the Bank on 12.04.2024. It was thereafter on 27.04.2024 Section 94 application was filed by the appellant. Appellant also filed Securitization Application 340/2024 before the DRT challenging the auction which was the appropriate remedy availed by the appellant. Securitization Application was dismissed on 09.08.2024, when appellant could not get any relief from the DRT who refuse to grant relief by order dated 09.08.2024, applications have been filed under Section 94 giving rise to this appeal. In the facts of the case as noticed above, we are of the view that initiation of proceeding under Section 94 by the personal guarantor was not with object of resolution of insolvency of the personal guarantor rather it was only with the intent to somehow create hurdles in the conclusion of the proceedings initiated by the Bank for recovery of its debts when auction was already held on 11.04.2024 which was confirmed on 12.04.2024, filing of the application on 27.04.2024 clearly was not bona fide application and the application was an abuse of process of Court and we are not inclined to interfere with the impugned order passed by the adjudicating authority rejecting the application filed by the appellant in facts of the present case.

15. Learned counsel for the appellant as well as learned counsel for the respondent have made submissions relying on various judgments of the Hon'ble Supreme Court and this Tribunal, according to the appellant unless the Sale Certificate is issued, the rights of the personal guarantors are not extinguished, whereas as per learned counsel for the respondent where auction notice is published on 25.03.2024, the right of redemption of mortgage comes to an end and no right is left in the personal guarantor thereafter. Learned counsel for the appellant has relied on the judgment of the Bombay High Court in 'Arrow Business Development Consultants Private



Limited’ (supra) in support of his submissions.

16. We however having already found that filing of application under Section 94 by the appellant was clearly abuse of process of the Court, the appellant cannot be allowed to scuttle auction proceedings which have already concluded on 11.04.2024 and were confirmed on 12.04.2024. The Sale Certificate have already been issued in favour of the auction purchaser on 31.05.2024 which was already challenged by the appellant before the DRT in Securitization Application No.340/2024, it is open for the appellant to pursue his remedy before the DRT, where auction held on 11.04.2024 is challenged.

17. We thus are of the view that adjudicating authority has not committed any error in rejecting the two applications filed by the appellant in Section 94 application. Rejection of applications cannot be faulted in the facts and sequence of the events of the present case as noted above.”

50. The aforesaid decision was rendered by Hon’ble NCLAT after taking into consideration the decisions in case of ‘**Rozina Firoz Hajiani & Ors.**’ Vs. ‘**Union of India & Ors.**’ [(2026) [ibclaw.in 1653 Bom HC](#)]’ in [Writ Petition (L) 5156/2026], ‘**Maria Kuresh Rajkotwala**’ Vs. ‘**Rozina Firoz Hajiani and Ors.**’ [(2025) [ibclaw.in 885 NCLAT](#)]’, in [Comp. App. (AT) (Ins.) No. 1644 of 2025], ‘**Syed Sirajis Salikin Khadri**’ Vs. ‘**Edelweiss Asset Reconstruction Company Limited & Anr.**’ [(2025) [ibclaw.in 294 NCLAT](#)]’, ‘**Mrs. Vimla Devi**’ Vs. ‘**Karnataka Bank Limited**’ [(2025) [ibclaw.in 692 NCLAT](#)]’ in [Comp. App. (AT) (Ins.) No. 2027/2024], and “**Arrow Business Development Consultants Private Limited**’ Vs. ‘**Union of India**’ [(2025) [ibclaw.in 4130 HC](#)]’ in [Writ Petition No. 11132 of 2025]”. Further, it is noted that Hon’ble NCLAT has categorically held that section 94 IBC provisions can not be resorted to scuttle a concluded auction sale process, and the guarantor may approach Ld. DRT to



challenge the said sale, if she wish to. Accordingly, we are of considered view that the present petition filed on 9.6.2025 after conclusion of auction of property on 30.5.2025 is nothing but an abuse of process of court and the said petition is not filed with an intent for resolution of insolvency but to scuttle the concluded sale.

51. The auction purchaser has also filed Intervention Petition being IVN.P. (IBC) No. 22(MB)2026 seeking intervention in C.P. (IB) No. 794(MB)2025. However, it is noted that the Hon'ble Bombay High Court has already observed that the sale in respect of the secured asset had not attained completion and that no rights had crystallised in favour of the auction purchaser. The said Judgment is presently under challenge before the Hon'ble Supreme Court, which has directed maintenance of status quo with respect to the subject property.
52. In such circumstances, until the issue is conclusively determined by the Hon'ble Supreme Court, the subject property is required to remain subject to the status quo order. The auction purchaser shall, however, be at liberty to seek appropriate reliefs before the competent forum, including by way of appropriate application before this Tribunal, should subsequent developments so warrant.
53. Hence, for the reasons recorded hereinabove, C.P. (IB) No. 794(MB)2025 filed under Section 94 of the Insolvency and Bankruptcy Code, 2016 is rejected. Consequently, IA (I.B.C.) No. 502(MB)2026 filed by the Financial Creditor is allowed. IVN.P. (IBC) No. 22(MB)2026 filed by the proposed intervener/auction purchaser stands disposed of in view of the observations made hereinabove.

Sd/-

Prabhat Kumar

Member (Technical)

Vijay Andhale

Sd/-

Sushil Mahadeorao Kochey

Member (Judicial)