

IA(IBC)/503/2026
In
CP(IBC) No. 378/KB/2018

Ajay Kumar Agarwal, Resolution Professional,

Avani Projects & Infrastructure Pvt. Ltd

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Respondent

CORAM

LABH SINGH, HON'BLE MEMBER (JUDICIAL)

REKHA KANTILAL SHAH, HON'BLE MEMBER (TECHNICAL)

For the Applicant	Mr. Ankur Mital Ld. Advocates For Mital & Mital Associates
For the RP	Mr. Rishav Banerjee Ld. Advocate Mr. Supriyo Gole, Ld. Advocate Mr. Ajay Kumar Agarwal, Ld. Advocate

Date of Order: 22.06.2026

O R D E R

(Heard Through Hybrid Mode)

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1. The present application has been filed under Section 60(5) of the Insolvency and Bankruptcy Code, 2016 read with Rule 11 of NCLT Rules, 2016 seeking the following reliefs:
 - (a) Allow the present application;
 - (b) Reject the Resolution Plan of Prominent Suppliers Pvt. Ltd. as approved by the CoC on 26.06.2025;
 - (c) Direct appropriate action against respondent being the Resolution Professional for acting in undue haste and in violation of the provision of Insolvency & Bankruptcy Code, 2016;
 - (d) Pass such other or further order as may be deemed fit and proper in light of the facts and circumstances of the present case.
2. Brief stated the facts of the applicant's case are that the applicant granted credit facilities to Avani Projects & Infrastructure Limited (hereinafter referred as "Corporate Debtor") vide sanction letter dated 21.03.2013. The loan facility were granted to the Corporate Debtor specifically for Avani Aspire Project. The loan was secured by way of corporate guarantee and mortgage of 10 acres of land situated at Mouza Nibra, District Howrah by Anupriya Management Private Limited (hereinafter referred as "Corporate Guarantor")

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- 2.1. The Corporate Debtor was admitted into CIRP process by this Adjudicating Authority vide order dated 13.03.2019 and Mr. Ajay Kumar Agarwal/respondent no. 1 was appointed as interim Resolution Professional.
- 2.2. The Corporate Debtor has two projects namely Avani Aspire and Avani Grand. The Committee of Creditors of Avani Project comprises of unsecured financial creditors with homebuyers of both the projects having 70.63% voting shares represented by Mr. Ashok Kumar Agarwal, Authorised Representative of homebuyers out of which 143 homebuyers belongs to Avani Aspire and 30 belongs to Avani Grand. The applicant is only a secured Financial Creditor having 16.47% voting shares and the remaining share of 12.91% is held by unsecured financial creditors.
- 2.3. It has further been submitted that Prominent Suppliers Pvt. Limited (hereinafter referred as “the SRA”) filed an application IA No. 1327 of 2024 seeking leave to grant the homebuyers of Avani Grand to submit a resolution plan for reverse insolvency of Avani Grand. This Adjudicating Authority allowed the said application vide order dated 09.12.2024 permitting the homebuyers of Avani Grand to submit a resolution plan. The SRA submitted the resolution plan for the Avani Grand project on 18.04.2025 and the same

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was discussed by the CoC in its 19th meeting held on 19.05.2025. The Resolution Professional/Respondent no. 1 stated that the resolution plan is compliant with Section 29-A of IBC 2016 and the resolution plan is under scrutiny. The CoC, in its 21st meeting held on 26.06.2025, discussed the resolution plan and put up the same for voting. The resolution plan was approved by 71.94% voting share which includes homebuyers of both the Avani Aspire and Avani Grand projects.

- 2.4. It has further been submitted that the insolvency process is being conducted in an arbitrary, biased manner and driven by conflict of interest. The resolution plan has been approved in haste to effect the right of the applicant who is the sole Secured Financial Creditor. The applicant, despite being sole Financial Creditor, has not been guaranteed payout as proposed by the Resolution Applicant in the resolution plan. The resolution plan has been approved by the homebuyers of both the projects though it pertains to one of the projects of Corporate Debtor. Therefore, the resolution plan requires to be rejected as the voting process was not fair. There is violation of Section 30(4) of the IBC 2016. There is no value of the security held by the Secured Financial Creditor.

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- 2.5. The resolution plan requires to be rejected on the ground that the Resolution Plan is uncertain and conditional with respect to treatment provided to the Secured Financial Creditor and in violation of the provision of IBC 2016 and IBBI(CIRP) Regulation 2016. The source of funds provided under the Resolution Plan are conditional and shall not resolve the Corporate Debtor rather it will push the same in liquidation. The Resolution Plan does not comply with provision of Section 30(2) of IBC 2016 and fails to provide minimum liquidation value as per Section 30(2)(b)(ii) of the IBC 2016. The Resolution Plan does not comply with Regulation 38(2)(d) of the IBBI(CIRP) Regulation 2016 and the Resolution Professional has acted in violation of Regulation 39(2) of the IBBI(CIRP) Regulation 2016. Therefore, the present application deserves to be allowed.
3. Respondent appeared in pursuance of notice issued by this Tribunal and filed reply stating therein that the present application is not maintainable at law or facts. The present application is bad for non-joinder of necessary parties. The present application has been filed challenging the resolution plan of one M/s. Prominent Suppliers Pvt. Ltd., which has already been approved by the Committee of Creditors of the Corporate Debtor with 71.94% voting;

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however, neither the SRA nor the CoC (the homebuyers) has been impleaded as party respondent who are necessary party in the present application. Therefore, the present application requires to be dismissed on this score alone.

3.1. The applicant is not a lender to Avani Grand project; and hence, no locus standi to object to any resolution plan received in respect of Avani Grand project. The fact that applicant is objecting to the resolution plan of Avani Grand project itself proves that the applicant wants liquidation of all the projects of the Corporate Debtor which is not the intention of the IBC 2016. The object of IBC 2016 is resolution and liquidation should be the last resort.

3.2. Moreover, the present application is not maintainable on the ground of delay, estoppels and waiver. The applicant through its representative has attended all the meetings of the CoC of the Corporate Debtor from the inception of CIRP of the Corporate Debtor i.e., from 13th March 2019 onwards. The resolution plan in respect of Avani Grand project was submitted by the SRA pursuant to order passed by this Adjudicating Authority on 9th December 2024 after which the IA (IBC) No. 1067/2020 in respect of the Corporate Debtor was withdrawn. The applicant was aware of the fact that the SRA was allowed to put in the resolution plan. The

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resolution plan of the SRA was approved by the CoC in the 21st CoC meeting held on 26th June 2025. The applicant did not raise any objection whatsoever with regard to the manner in which the resolution plan was submitted by the SRA and the manner in which CIRP process was carried out by the answering respondent being the Resolution Professional. In fact, the applicant abstained from voting and till the date of filing of the application in the month of April 2026, never raised even a single objection in any of the CoC meetings with regards to the resolution plan or the process that was adopted and followed in the CIRP process of the Corporate Debtor.

3.3. The resolution plan was submitted by the SRA on 18th April 2025 and the same was duly received by the answering respondent vide email dated 18th April 2025. A copy of which was also sent to the applicant. It is pertinent to mention that the applicant was served with the copy of the resolution plan on 21st June 2025 as the applicant did not provide the non-disclosure agreement till 20th June 2025. The resolution plan of the SRA was discussed in several CoC meetings being held on 19th CoC meeting dated 19th May 2025 and 21st CoC meeting dated 26th June 2025 wherein the applicant was duly present through its officials and

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participated in such CoC meetings through its representative. Thus, it is evident from the minutes of the CoC meetings that the applicant has never objected to the resolution plan of the SRA in respect of the Avani Grand project. The applicant has never complained about any material irregularity in the CIRP process of the Corporate Debtor. The voting on the resolution plan was concluded on 04th July 2025 and an I.A. No. 23/KB/2025 for approval of the resolution plan of Prominent Suppliers Pvt. Ltd, SRA in respect of Avani Grand project was filed by the Resolution Professional on 07th July 2025. The applicant, after expiry of almost one year, has filed the present application being an afterthought and in order to delay the CIRP process of the Corporate Debtor and/or delay and defeat the successful resolution of one of the projects of the Corporate Debtor, namely Avani Grand project.

3.4. The applicant could have raised objection in the CoC meetings or by issuing correspondences to the answering respondent being the Resolution Professional as well as to the other CoC Members. The applicant has not issued to the applicant or SRA or other members of CoC even a single letter of complaint or protest till date. If the resolution plan was illegal or contrary to the provisions of the IBC

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2016, it was always open to the applicant as a CoC member to record the same in the CoC meetings and to ask for compliance of the provisions of the IBC 2016 as regards the resolution plan and process of approval thereof.

3.5. It is clear more than crystal that after the resolution plan in respect of Anupriya Management Pvt. Ltd. (one of the group company) has failed and Anupriya Management Pvt. Ltd. was resolved to be liquidated, the applicant has come up with 3 (three) applications including the present application challenging the resolution plan in respect of Avani Grand project of the Corporate Debtor solely in order to send all the projects and/or the corporate debtor into liquidation.

3.6. There is no material irregularity in the CIRP of the Corporate Debtor and the resolution plan has been submitted by the SRA pursuant to orders passed by this Adjudicating Authority. It is a settled principle of law that even IBC 2016 recognizes project-wise insolvency and such is a settled principle of law as settled by the Hon'ble NCLAT in catena of judgements. It is an admitted fact that the applicant has provided financial facilities towards Avani Aspire project of the Corporate Debtor and not Avani Grand project and as such, the applicant is not stakeholder of the

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Corporate Debtor vis-à-vis Avani Grand project for which the applicant can have no objection to the resolution plan.

- 3.7. The homebuyers have already contributed a huge sum of money to the Corporate Debtor and now, the SRA has stepped in to construct the said project and get their respective home. The same is in accordance with the true spirit of IBC, 2016. Therefore, in view of above-mentioned facts and circumstances, the present application deserves to be dismissed.
4. Heard Learned Counsel appearing for the parties. We have carefully gone through pleadings of the parties and documentary evidence placed on record. We have duly considered the law applicable on the facts and circumstances of the present application.
5. It is an admitted case of applicant that it granted credit facilities to the Corporate Debtor vide sanction letter dated 21.03.2013 but specifically for Avani Aspire Project. Thus, the applicant admittedly is not a lender to the Avani Grand project.
6. It is undisputed fact that the resolution plan was submitted by the SRA on 18th April 2025 and a copy of the same was also sent to the applicant. The applicant was served with the copy of the resolution plan on 21st June 2025 as

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non-disclosure agreement was not supplied till 20th June 2025. The resolution plan of the SRA was discussed in the 19th CoC meeting dated 19th May 2025 and 21st CoC meeting held on 26th June 2025. The applicant through its representative remained present and participated in such CoC meetings. It is evident from the minutes of the CoC meetings that the applicant has never objected to the resolution plan of the SRA in respect of the Avani Grand project. The applicant has never complained about any material irregularity in the CIRP of the Corporate Debtor. The CoC voted on the resolution plan which concluded on 04th July 2025 and thereafter, plan approval application being I.A. No. 23/KB/2025 was filed by the Resolution Professional on 07th July 2025. Thus, the present application has been filed after almost one year of the approval of the resolution plan for the reasons best known to officials of the applicant.

7. It has come on record that the resolution plan in respect of Anupriya Management Pvt. Ltd. has failed and Anupriya Management Pvt. Ltd. has been resolved to be liquidated. The applicant, in view of this, has come forward at this stage to challenge the resolution plan of Avani Grand Project of the Corporate Debtor for the reasons best known to its

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officials to push all projects of the Corporate Debtor into liquidation.

8. It is the aim and object of the IBC Code to resolve the insolvency of the Corporate Debtor and not to liquidate wherever it is possible to the best.
9. Therefore, in view of the above, we do not find any merit in the present application and hence, the same stands dismissed as being devoid of merits.
10. The present application stands disposed of in term of our order above.

REKHA KANTILAL SHAH
MEMBER (TECHNICAL)

LABH SINGH
MEMBER (JUDICIAL)