

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

**I.A. (I.B.C) (Plan) No.41/MB/2025, INVP No.74/2025 & IA 2818/2025**

**in**

**CP (IB) No.314/MB/2023**

*[Under Sections 30(6) and 31 of the Insolvency and Bankruptcy Code, 2016 read with Regulation 39(4) of Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) Regulations, 2016]*

**Ordered on: 07.07.2026**

**MR. ASHOK KUMAR GOLECHHA**

**[Registration No. IBBI/IPA-002/IP-000932/2019-20/12973]**

**RESOLUTION PROFESSIONAL OF VAS INFRASTRUCTURE LIMITED**

Flat No.B-703/704, 7<sup>th</sup> Floor, River Park CHS Ltd.

Dattani Park Road, Thakur Village, Opp. Sai Dhaam

Kandivali (East),

Mumbai-400101

Maharashtra.

**...Applicant**

**INVP No. 74/2025**

**Brijesh Haridas Nagar Co-op. Hsg Soc. Ltd.**

**...Applicant/Intervener**

**Vs.**

**Mr. Ashok Kumar Golechha**

**...Resolution Professional**

**IA 2818/2025**

**Deepak Amrutlal Desai & Ors.**

**...Applicants/Interveners**

**Vs.**

**Ashok Kumar Golechha & Ors.**

**...Respondents**

**IN THE MATTER OF**

**CANARA BANK**

**...Financial Creditor**

**Vs.**

**VAS INFRASTRUCTURE LIMITED**

**...Corporate Debtor**

**CORAM:**

**HON'BLE SHRI ASHISH KALIA, MEMBER (JUDICIAL)**

**HON'BLE SHRI SANJIV DUTT, MEMBER (TECHNICAL)**

**Appearances: Hybrid**

**Applicant/RP/Respondent in IAs:** Adv. Yahya Batatawala

**Canara Bank:** Adv. Mahesh Haridas Chandanshiv

**Applicant in IA 2818/2025 :** Adv. Ajit Anekar

**Applicant in Invp No.74/2025 :** Adv. Vandana Sehgal

**ORDER**

***[PER: SANJIV DUTT, MEMBER (TECHNICAL)]***

**1. BACKGROUND**

- 1.1 This **I.A. (I.B.C) (Plan) No. 41/MB/2025** in CP(IB) No. 314/MB/2023 (hereinafter referred to as "Company Petition") was filed on 03.04.2025 by Mr. Ashok Kumar Golechha, the Applicant/Resolution Professional (hereinafter referred to as "the RP") on behalf of the Committee of Creditors (hereinafter referred to as "the CoC") of Vas Infrastructure Limited, (hereinafter referred to as "the Corporate Debtor"), for seeking approval of the Resolution Plan dated 20.01.2025 along with the Addendum dated 26.03.2025 to the Resolution Plan (hereinafter referred to as "the Plan") under Section 30(6) read with Section 31 of the Insolvency and Bankruptcy Code, 2016 (hereinafter referred to as "the Code") and Regulation 39(4) of the Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) Regulations 2016 (hereinafter referred to as "CIRP Regulations") submitted by Authum Investment and Infrastructure Limited, i.e.,

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Successful Resolution Applicant (hereinafter referred to as “Authum”) and duly approved by 100% voting share in the 18<sup>th</sup> CoC meeting held on 27.03.2025.

## **2. CHRONOLOGY OF EVENTS SINCE INITIATION OF CORPORATE INSOLVENCY RESOLUTION PROCESS (CIRP)**

- 2.1 This Adjudicating Authority *vide* order dated 11.03.2024 (hereinafter referred to as “Admission Order”), in C.P.(IB) No. 314/MB/2023 filed by Canara Bank as Financial Creditor under Section 7 of the Code admitted the Corporate Debtor into Corporate Insolvency Resolution Process (hereinafter referred to as “CIRP”). The proposed Interim Resolution Professional (hereinafter referred to as “IRP”), Mr. Ashok Kumar Golechha was appointed as the IRP and later confirmed in the 1<sup>st</sup> CoC meeting dated 05.04.2024 as the Resolution Professional (hereinafter referred to as “RP”) of the Corporate Debtor for conducting the CIRP of the Corporate Debtor.
- 2.2 Later, the Admission Order was challenged before Hon’ble NCLAT by Brijesh Haridas Nagar Co-Op. Housing Society Limited. However, the said challenge was dismissed by Hon’ble NCLAT, Principal Bench, New Delhi *vide* its order dated 09.12.2024 in Comp. App (AT) (Ins.) No. 1201 of 2024 & IA Nos. 4295-4298 of 2024 on the ground of being barred by limitation.
- 2.3 Public announcement as per Regulation 6(1) of the CIRP Regulations in Form A was made on 12.03.2024, for inviting claims from stakeholders of the Corporate Debtor under Section 15 of the Code, with 25.03.2024 as the last date for receipt of claims. The Form A was published in ‘Free Press Journal’ (English) and ‘Navakal’ (Marathi) having circulation in Mumbai. Due to technical glitches, the Applicant published the corrigendum on 17.03.2024 for changing the project

specified email address. Pursuant to receipt of claims from various creditors, the Applicant constituted the CoC and reported the same before this Tribunal through IA No.2252/2024 which was allowed by this Tribunal *vide* its order dated 08.05.2024. The CoC comprised of only one secured Financial Creditor, i.e., Canara Bank.

- 2.4 The Applicant convened the 2<sup>nd</sup> CoC meeting dated 23.04.2024 wherein the appointment of practising Company Secretary for conducting the Secretarial Audit of the Corporate Debtor, etc was discussed. Later, the Applicant/RP published the 1<sup>st</sup> Form G on 10.05.2024 regarding invitation for Expression of Interest (hereinafter referred to as "Eol") with 30.05.2024 as the last date of submitting the Eol and 09.06.2024 and 14.06.2024 as the last date for issue of the provisional list of Prospective Resolution Applicants (hereinafter referred to as "PRAs") and submitting objections to the provisional list respectively.
- 2.5 Pursuant to publication of Form G, the Applicant received six Eols from the interested parties and prepared the list of provisional PRAs dated 08.06.2024. The said list included the names of Authum Investment and Infrastructure Limited as well as Kalyan Toll Infrastructure Limited as PRAs. The Applicant/RP had also prepared the Information Memorandum (hereinafter referred to as "IM") on 17.06.2024 in compliance with Regulation 36 of the CIRP Regulations.
- 2.6 To approve the preparation of the Request for Resolution Plan (hereinafter referred to as "RFRP"), the Applicant/RP convened the 4<sup>th</sup> CoC meeting dated 25.06.2024 wherein the issue of RFRP was deliberated by the CoC. Due to non-receipt of any objection over the provisional list of PRAs, the Applicant published the Final List of

PRAs on 24.06.2024 and later, he also prepared the RFRP and the Evaluation Matrix on 29.06.2024.

- 2.7 Meanwhile, the Applicant/RP convened the 5<sup>th</sup> CoC meeting dated 19.07.2024 to deal with the aforesaid challenge of Brijesh Haridas Nagar Co-Op. Housing Society Limited to the admission order before Hon'ble NCLAT. Though the last date of submitting the Resolution Plan was 29.07.2024, the Applicant/RP later extended the last date for submission to 19.08.2024 upon receipt of requests from the PRAs. On 19.08.2024, the Applicant/RP received 3 Resolution Plans from the PRAs. One such Resolution Plan was later disallowed due to non-compliance of Section 29A of the Code.
- 2.8 The remaining two Resolution Plans were opened in the 6<sup>th</sup> CoC meeting dated 22.08.2024. Since the CIRP period of 180 days was ending on 07.09.2024, the Applicant/RP sought CoC approval for filing the interlocutory application for extension of CIRP period by 90 days through his email dated 30.08.2024. Subsequently, the Applicant convened the 7<sup>th</sup> CoC meeting dated 05.09.2024 to ratify the filing of IA for extending CIRP period for 90 days as well as discuss the compliance check of the said Resolution Plans. Subsequently, the Applicant filed IA No. 4516/2024 for extension of CIRP period for 90 days from 08.09.2024 to 07.12.2024 which was allowed by this Tribunal *vide* its order dated 01.10.2024.
- 2.9 The Resolution Plans were further deliberated by the CoC in its 8<sup>th</sup> and 9<sup>th</sup> meetings dated 05.10.2024 and 24.10.2024 respectively. In the 10<sup>th</sup> CoC meeting dated 21.11.2024, the CoC discussed the status of legal proceeding filed by Laxmi Nagar Cooperative Housing Society Limited, sale of shares by promoter group in

compliance with SEBI orders, approval for further extension of CIRP period for 60 days etc.

2.10 Since the CIRP period of 270 days was ending on 06.12.2024, the Applicant/RP convened the 10<sup>th</sup> CoC meeting dated 21.11.2024 to ratify the filing of IA for extending CIRP period for 60 days and subsequently, the Applicant filed IA No. 264/2025 for extension of CIRP period for 60 days from 07.12.2024 to 04.02.2025 and the same was allowed by this Tribunal *vide* its order dated 20.01.2025. Thereafter, the Applicant convened the 11<sup>th</sup> and 12<sup>th</sup> CoC meetings on 02.12.2024 and 17.12.2024 respectively to discuss the Resolution Plans as well as take note of the legal cases involving the Corporate Debtor. Further discussion upon the Resolution Plans took place in the 13<sup>th</sup> CoC meeting dated 15.01.2025 and 14<sup>th</sup> CoC meeting dated 18.01.2025. During the 14<sup>th</sup> CoC meeting, the Applicant asked the PRAs to submit the improved Resolution Plans by 20.01.2025.

2.11 Meanwhile, the CoC, in its 15<sup>th</sup> meeting dated 30.01.2025, approved the resolution for filing the IA to extend the CIRP period for 30 days since the CIRP period of 330 days was ending on 04.02.2025. Subsequently, the Applicant/RP filed the IA No. 1001/2025 before this Tribunal for extending the CIRP period for 30 days from 05.02.2025 to 07.03.2025 and the said IA was allowed *vide* order of this Tribunal dated 26.02.2025. To discuss and recommend the claims from related parties i.e., unsecured Financial Creditors, the Applicant convened the 16<sup>th</sup> CoC meeting dated 27.02.2025 as well as 17<sup>th</sup> CoC meeting dated 03.03.2025. During the 17<sup>th</sup> CoC meeting, the CoC approved the filing of IA to seek further extension of CIRP period by 30 days from 07.03.2025 to 05.04.2025. Accordingly, the Applicant filed

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IA No. 1481/2025 praying for extension of CIRP period by 30 days from 07.03.2025 to 05.04.2025 which was allowed *vide* order of this Tribunal dated 02.04.2025.

- 2.12 The proposed Resolution Plan of Authum was put for voting in the 18<sup>th</sup> CoC meeting dated 27.03.2025 wherein the CoC approved the same with 100% voting in favour of the Resolution Plan and thus, Authum was declared as the Successful Resolution Applicant. After perusal of the proposed Resolution Plan, the Applicant issued the Compliance Certificate dated 30.03.2025 in favour of Authum.
- 2.13 The Applicant/RP issued the Letter of Intent (hereinafter referred to as “LOI”) dated 01.04.2025, in favour of Authum and mentioned that the latter must deposit the 20% of its Bid Amount i.e., Rs.17,01,00,000/- in the form of Performance Bank Guarantee as Performance Security for implementation of the Resolution Plan as per Clause 1.9 of the RFRP.
- 2.14 The RP claims to have complied with the requirements under Section 30(2)(a) to (f) of the Code and Regulations 38(1)(a), 38(1A), 38(2)(a) to (c) and 38(3) of the CIRP Regulations. The RP has also provided the “FORM H” dated 03.04.2025 as mandated under Regulation 39(4) of the CIRP Regulations, for seeking approval of the Plan by this Adjudicating Authority.
- 2.15 On account of certain queries raised by this Tribunal *inter alia* regarding the details of Pushp Vinod-6 (hereinafter referred to as “**PV-6**”) project, nature of development rights acquired by Corporate Debtor, diversion of funds to its related entities by the Corporate Debtor and absence of any application under Section 66 of the Code. Further queries were raised *vide* order dated 06.01.2026 in regard to details of buildings constructed by the Corporate Debtor pursuant to Development Agreements dated 02.05.2009 and 09.03.2012, relevant evidence such as letter of

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sanction of PV-6 project in Sector-I and Sector-II Borivali by MCGM, commencement certificate etc. in support of Inventory/Work-in-Progress (WIP) of said project as reflected in audited financial statements of the Corporate Debtor. Copies of Transaction Audit Report dated 09.08.2024 and Addendum dated 06.11.2024 were also sought from the Applicant/RP vide order dated 06.01.2026 and the same were placed on record by way of Additional Affidavit. The matter was listed for clarification *vide* orders dated 20.11.2025 and 06.01.2026. Pursuant to this, the Applicant filed the Additional Affidavits dated 08.01.2026 and 05.03.2026 clarifying the aforesaid issues.

2.16 Queries were put also to sole CoC Member, Canara Bank vide order dated 03.02.2026 with regard to loan transactions with the Corporate Debtor seeking submission of copy of report of Transaction Audit got conducted by Syndicate Bank (the original Lender)/Canara Bank and clarifying whether such Transaction Audit report(s) had yielded evidence of diversion of borrowed funds to related parties by the Corporate Debtor. Further queries were raised from Canara Bank vide order dated 20.03.2026 *inter alia* seeking copies of mortgage deeds along with title deeds of land mortgaged with the Bank by the Corporate Debtor, Commencement Certificate, Occupancy Certificate and other documents relating to redevelopment of PV-6 project of the Corporate Debtor funded by the Bank including site inspection reports, WIP reports, project completion report etc. In this connection, Additional Affidavits dated 05.03.2026, 20.04.2026 and 06.05.2026 were filed by the Canara Bank offering its clarifications in the matter.

**3. VALUATION OF ASSETS OF CORPORATE DEBTOR AND CLAIMS RECEIVED**

3.1 The RP submits that to ensure proper valuation of the Corporate Debtor's properties, two Registered Valuers were appointed by the CoC. The Fair Value of the Corporate Debtor's assets is mentioned in Form H as Rs.112,76,27,374/- (rounded off) and the Liquidation Value of the Corporate Debtor's assets is mentioned as Rs. 81,09,67,445/-.

3.2 As on 31.01.2025, the list of Corporate Debtor's creditors, uploaded on the website of Insolvency and Bankruptcy Board of India (hereinafter referred to as "IBBI"), based on the claims received by the Applicant/RP is as under:

| <b>Sr. No.</b> | <b>Creditors</b>                                                  | <b>Claim Amount (Rs.)</b> | <b>Claim Amount Admitted (Rs.)</b> | <b>No. of received Claims</b> |
|----------------|-------------------------------------------------------------------|---------------------------|------------------------------------|-------------------------------|
| 1.             | Secured Financial Creditors belonging to any class of creditors   | NIL                       | NIL                                | NIL                           |
| 2.             | Unsecured Financial Creditors belonging to any class of creditors | NIL                       | NIL                                | NIL                           |
| 3.             | Secured Financial Creditors (Other than Financial                 | 383,00,00,090.35          | 383,00,00,090.35                   | 1                             |

**Case Citation: (2026) ibclaw.in 2530 NCLT**  
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|    |                                                                                                   |                 |              |     |
|----|---------------------------------------------------------------------------------------------------|-----------------|--------------|-----|
|    | Creditors belonging to any class of creditors)                                                    |                 |              |     |
| 4. | Unsecured Financial Creditors (Other than Financial Creditors belonging to any class of creditors | 11,53,68,212.80 | ---          | 7   |
| 5. | Operational creditors (Workmen)                                                                   | NIL             | NIL          | NIL |
| 6. | Operational creditors (Employees)                                                                 | 13,65,828       | 13,65,828    | 6   |
| 7. | Operational creditors (Government Dues)                                                           | 3,66,56,417     | 3,66,56,417  | 2   |
| 8. | Operational creditors (Other than Workmen, Employees and Government Dues)                         | 51,80,766.70    | 30,36,919.70 | 5   |
| 9. | Other creditors, if any, (other                                                                   | 29,13,06,490    | 2,84,80,497  | 2   |

|              |                                                              |                         |                         |           |
|--------------|--------------------------------------------------------------|-------------------------|-------------------------|-----------|
|              | than Financial<br>Creditors and<br>Operational<br>Creditors) |                         |                         |           |
| <b>TOTAL</b> |                                                              | <b>427,98,77,804.85</b> | <b>389,95,39,752.05</b> | <b>23</b> |

#### **4. BRIEF BACKGROUND OF CORPORATE DEBTOR**

- 4.1 The Corporate Debtor was incorporated on 11.02.1994 and was engaged in the business of real estate. The CIN of the Corporate Debtor is L65100MH1994PLC076538 and its registered office is located at Flat No. B-1B, 1<sup>st</sup> Floor, Madhav Niwas CHSL, Natakwala Lane, Opp. S.V. Road, Borivali (West), Mumbai-400092, Maharashtra. Its equity shares were listed on the BSE Limited and as per its MCA Master Data, the whole-time directors of the Corporate Debtor were Mr. Jayesh Vinodrai Valia, Mr. Ajaykumar Nautamlal Jani, Mrs. Kirti Kishore Padave, Mr. Vinod Chintaman Deo and Mr. Ravindra S. Dungarshi.
- 4.2 The Applicant submits that as on 11.03.2024 (Insolvency Commencement Date), the total investment of the Corporate Debtor was Rs.83,87,18,000/- and there were 11 equity shareholders having 64.72% of the total share capital of the Corporate Debtor as on 11.03.2024. It is also claimed that the Corporate Debtor holds absolute rights, title and interest including all development rights in 10 real estate projects named as Pushp Vinod in Borivali, Mumbai.

#### **5. BRIEF BACKGROUND OF AUTHUM**

- 5.1 Authum submits that it is a public limited company having its registered office at 707, Raheja Centre, Free Press Journal Road, Nariman Point-400021, Maharashtra and is engaged in the business of financial and investment activities. It focuses on equities in India through investments in public listed and unlisted

companies, debt financing, real estate and mutual funds. It is a listed company with its equity shares listed on NSE Limited, BSE Limited and Calcutta Stock Exchange Limited.

- 5.2 To highlight its financial viability, Authum has produced the net worth certificate dated 31.03.2023 issued by H.R. Agarwal & Associates, Chartered Accountants wherein it is stated that the net worth of Authum as on 31.03.2023 is Rs.2991 Crores (Rupees Two Thousand Nine Hundred Ninety-One Crores Only).

**6. SALIENT FEATURES OF PLAN APPROVED BY CoC**

- 6.1 Authum has proposed to make an upfront payment of Rs.25,56,00,000/- with Rs.85,05,00,000/- as the total value of the Plan in following manner:-

| <b>Stakeholder</b>                                               | <b>Upfront Payment<br/>(In Rs.)</b> | <b>Balance<br/>Payment (In Rs.)</b> | <b>Total Payment<br/>(In Rs.)</b> |
|------------------------------------------------------------------|-------------------------------------|-------------------------------------|-----------------------------------|
| <b>CIRP Costs &amp;<br/>Standstill Period<br/>Costs</b>          | To be paid in full                  | ----                                | To be paid in full                |
| <b>Operational<br/>Creditors</b>                                 | <b>48,56,195</b>                    | ----                                | <b>48,56,195</b>                  |
| Employees                                                        | 13,65,828                           | ----                                | 13,65,828                         |
| Statutory<br>Authorities                                         | 32,09,813                           | ----                                | 32,09,813                         |
| Operational<br>Creditors other<br>than Employees &<br>Government | 2,80,554                            | ----                                | 2,80,554                          |

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|                            |                     |                     |                     |
|----------------------------|---------------------|---------------------|---------------------|
| <b>Financial Creditors</b> | <b>24,83,10,771</b> | <b>59,49,00,000</b> | <b>84,32,10,771</b> |
| Secured                    | 24,83,10,771        | 59,49,00,000        | 84,32,10,771        |
| <b>Other Creditors</b>     | <b>24,33,034</b>    | ----                | <b>24,33,034</b>    |
| <b>TOTAL</b>               | <b>25,56,00,000</b> | <b>59,49,00,000</b> | <b>85,05,00,000</b> |

6.2 As far as the source of funds is concerned, Authum has stated in its Plan that after the completion of increase in authorised capital as well as assignment of Assigned Assets in its favour by the Financial Creditors and conversion of the same into equity shares of the Corporate Debtor, Authum will infuse Rs.99,00,000/- into the Corporate Debtor in the form of subscription amounts to subscribe to equity shares and/or preference shares of the Corporate Debtor. In case of further requirement to pay the CIRP costs and payments to Operational Creditors and Other Creditors, the same will be made from the own funds and accruals of Authum. For the purpose of making payments towards the Financial Creditors over assignment of assets, it shall be done from own funds and accruals of Authum and pursuant to the issuance to the Financial Creditor of Non-Convertible Debentures by the Corporate Debtor.

6.3 One of the salient features of the Plan is the capital reduction under Section 66 of the Companies Act, 2013 wherein the shareholding pattern of the Corporate Debtor in percentage terms would be 94.99% shares held by Authum and 5.01% shares held by the public shareholders respectively to ensure listing of the Corporate Debtor on the BSE Limited after approval of the Plan.

- 6.4 The terms and conditions for the effective implementation have been provided in Schedule 2 of the Plan while Schedule 3 of the proposed Plan refers to the terms and conditions of the issuance of 5,949 unlisted non-convertible redeemable debentures with a face value of Rs.1,00,000/- each (Rs.59,49,00,000) to the Financial Creditors for a period of four years from the date of allotment.

## **7. MANAGEMENT OF CORPORATE DEBTOR**

- 7.1 It is stated that Authum will constitute the Implementation and Monitoring Committee (hereinafter referred to as “IMC”) which is in line with the RFRP. The IMC will comprise of one representative of the Assenting Financial Creditors, three representatives of Authum and the Resolution Professional or any other RP nominated by the CoC with him as the monitoring agent. The IMC would be tasked with monitoring funds and implementation of plan from the NCLT Approval date to the Effective Date.
- 7.2 It is submitted that the proposed Plan shall be valid from the date of submission of this Resolution Plan to the Resolution Professional until the date of the order of the Adjudicating Authority approving/rejecting this Resolution Plan or liquidating the Corporate Debtor and such order is not appealed further or is *sub-judice* under Indian courts (“Resolution Plan Validity Period”). Provided however, upon approval of this Resolution Plan by the Committee of Creditors and the Adjudicating Authority, this Resolution Plan shall be valid until its implementation in accordance with Applicable Law.

## **8. PUFE TRANSACTIONS**

- 8.1 As far as the Preferential, Undervalued, Fraudulent and Extortionate (hereinafter referred to as “PUFE”) transactions are concerned, the Applicant/RP submits that

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he had filed the IA No.5564/2024 under Section 45 of the Code on 26.09.2024 against Mrs. Kirti Kishore Padave on account of an undervalued transaction of sale of property below the Ready Reckoner value for an amount of Rs.9,25,887/-. The said IA is currently pending before this Tribunal.

- 8.2 In its Additional Affidavit dated 05.03.2026, the Ld. Counsel for the Applicant/RP contended that the Transaction Audit Report dated 09.08.2024 prepared by M/s. Arun M. Agarwal & Associates, Chartered Accountants had clearly recorded that there was no conclusive material demonstrating diversion outside the business framework of the Corporate Debtor. The same conclusion regarding absence of diversion of funds or fraudulent transactions was also reported in the Forensic Audit Report dated 28.06.2025 conducted by the same CAs, i.e., M/s. Arun M. Agarwal & Associates appointed by the Canara Bank i.e., sole member of the CoC.
- 8.3 Later, however, the Applicant filed IA No.1226/2026 under Section 66 of the Code on 19.03.2026 seeking directions against Mr. Jayesh Vinodrai Valia and others to contribute an amount of Rs.54,09,40,000/- to the assets of the Corporate Debtor. The said IA is also pending for adjudication before this Tribunal.

## **9. PERFORMANCE GUARANTEE**

- 9.1 It is submitted that pursuant to the issuance of Lol dated 01.04.2025, Authum was supposed to furnish the performance security of 20% of the Bid Amount as per the format prescribed in the RFRP in the form of a Performance Bank Guarantee in compliance with Clause 1.9 of the RFRP.
- 9.2 However, on perusal of Form H (Compliance Certificate), it is noticed that till the date of filing of instant IA seeking approval of the Adjudicating Authority to the Resolution Plan, the Applicant/RP had not furnished evidence of receipt of

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performance security/ bank guarantee as required under Regulation 36B(4A) of CIRP Regulations and instead stated that the requisite **performance security was yet “to be received”**. Thus, it is evident that the Applicant/RP has committed contravention of Regulation 39(4) of the CIRP Regulations in submitting the Resolution Plan for approval of the Adjudicating Authority without furnishing proof of receipt of performance bank guarantee.

## **10. RELIEFS AND CONCESSIONS**

- 10.1 Authum has sought various reliefs and concessions as mentioned in Chapter VI of the Plan to manage the affairs of the Corporate Debtor and ensure its running as a going concern. Authum has sought various reliefs and concessions based on the clean slate concept laid down by the Hon'ble Supreme Court in various judgements, which are necessary to keep the Corporate Debtor as a going concern; release the Corporate Debtor from any and all liabilities/proceedings, disputes and noncompliance prior to the date of approval of the Plan by NCLT, etc.
- 10.2 Authum has also sought waiver regarding its investment wherein its investment shall not disqualify Authum under Section 29A of the Code for purposes of any future bids/resolution plans that it may submit in future under any CIRP.
- 10.3 Other reliefs sought by Authum include deemed revalidation and reapproval of all the approvals, consents, permits and permissions in relation to the real estate projects including height approvals from the Airport Authority of India which were subsisting or obtained by the Corporate Debtor.

## **11. CONTENTIONS OF CANARA BANK/CoC**

- 11.1 On account of queries raised by this Tribunal over loan transactions with the Corporate Debtor, the authorized Officer of Canara Bank/CoC filed his Additional

Affidavit dated 05.03.2026 wherein it was submitted that Canara Bank had not only issued Show Cause Notice dated 22.11.2024 after suspecting irregularities in its credit facilities extended to the Corporate Debtor but also conducted the investigation regarding the same as evident from the Investigation Report dated 05.08.2015 by Syndicate Bank (now Canara Bank). In fact, the Corporate Debtor was given opportunity to reply as per the principles of natural justice through Canara Bank's notices dated 23.09.2025 and 18.10.2025 and after receiving no reply from the Corporate Debtor, Canara Bank *vide* its letter dated 25.02.2026 informed the erstwhile director of the Corporate Debtor, Mr. Jayesh Vinodrai Valia about the Corporate Debtor's loan accounts being declared as "**Fraud**".

11.2 Upon raising further queries *vide* order dated 20.03.2026, the Ld. Counsel for the Canara Bank/CoC filed the Additional Affidavits dated 18.04.2026 and 06.05.2026 wherein the Canara Bank stated that the charge was created upon the lands allegedly owned by the Corporate Debtor in lieu of credit facilities to finance the Corporate Debtor's real estate projects.

## **12. ANALYSIS AND FINDINGS**

12.1 We have heard the Ld. Counsel for the RP, the CoC and perused the Plan and related documents including the Additional Affidavits submitted by the parties along with the I.A.

12.2 It is no doubt well-established that the commercial wisdom of the Committee of Creditors in regard to the approval of a resolution plan under the Code is supreme or paramount. However, it is also equally well-recognized that such primacy is neither absolute nor does it render every action in the insolvency process immune from scrutiny. For instance, Section 31(2) of the Code lays down that where the

Adjudicating Authority is satisfied that the resolution plan approved by the committee of creditors does not conform to the requirements referred to in Section 31(1), it may, by an order, reject the resolution plan. As per Section 31(1), while considering a resolution plan for approval, the Adjudicating Authority should be satisfied that the resolution plan as approved by the CoC meets the requirements as referred to in Section 30(2) of the Code. Among the various requirements enumerated in Section 30(2), it is a pre-requisite that each resolution plan must not contravene any of the provisions of the law for the time being in force and that it must conform to such other requirements as may be specified by the Board. Further, taking cue from Section 61(3) of the Code dealing with grounds for appeal before Hon'ble NCLAT, jurisprudence has evolved over the years recognizing valid justification for rejection of the resolution plan by the Adjudicating Authority where it is found that there has been material irregularity in exercise of the powers by the resolution professional during the corporate insolvency resolution process.

12.3 The phrase “material irregularity” has not been defined in either the Code or the CIRP Regulations. However, the Hon'ble NCLAT in the matter of **Mr. Amit Sangal v. Mr. Kairav Anil Trivedi and Ors.**, (2025) ibclaw.in 130 NCLAT has referred to the definition of the terms “material” and “irregularity” from Black's Law Dictionary and drawn the following legal propositions concerning the meaning and scope of the term “material irregularity” in paragraph 56 of the judgment:-

- *“Material Irregularity refers to a significant deviation from established rules, practices, or procedures that is substantial enough to influence the outcome of a legal proceeding or decision. It involves a failure to adhere to prescribed methods, either by omitting necessary actions or performing them improperly or untimely. Such irregularities are not merely formal defects but have a material impact, affecting the merits*

*of a case or the rights of the parties involved. Unlike illegality, which denotes a violation of law, material irregularity pertains to procedural defects that can undermine the fairness or validity of legal proceedings.*

- *It is crucial to note that the Code provides a comprehensive legal framework for the resolution of insolvency of corporate debtor in a timebound manner, with the objective of maximizing the value of assets of the Corporate Debtor and ensuring the equitable treatment of stakeholders. The CIRP is a critical mechanism under the Code, and it is imperative that the process is conducted fairly, transparently, and in strict compliance with the provisions of the law.*
- *Thus, we may derive an inference that a material irregularity in the conduct of the CIRP is one that significantly impacts the fairness, legality and integrity of the process. Such irregularities can lead to delays, financial losses and litigation, thereby defeating the objectives of the Code. Material irregularities may arise from non-compliance with the statutory provisions, rules and regulations governing the CIRP. Any deviation from these prescribed legal provisions, both procedural or substantive, may amount to a material irregularity and affect the legitimacy of the resolution process, of-course, depending upon the facts and context of each case and no strict guidelines can be laid down.....*
- *Fraud or collusion by the resolution professional with the corporate debtor, or any other stakeholder involved in the CIRP, concealment of material facts, non-adherence to significant CIRP Regulations etc. also constitute material irregularities. Any act of misrepresentation, concealment, or fraudulent conduct undermines the transparency and fairness of the process. Similarly, mismanagement of the corporate debtor during the CIRP can give rise to material irregularity. The resolution professional is entrusted with the responsibility of managing the affairs of the corporate debtor in a manner that preserves its value. Any instance of mismanagement, including*

*diversion of funds, dissipation of assets, or any conduct that is detrimental to the corporate debtor, may be considered a material irregularity.*

- *If a material irregularity is established, the Adjudicating Authority is empowered under the Code to take corrective measures. Such measures may include setting aside decisions taken during the CIRP, directing an investigation into the conduct of the resolution professional, or imposing sanctions on the parties involved.....*
- *The evolving jurisprudence in this area will continue to define the scope and implications of material irregularities, but the fundamental principles of fairness, transparency and compliance with the law must be upheld at all times. All parties involved in the CIRP, including resolution professionals, creditors, and corporate debtors, must adhere to the highest standards of integrity and diligence to ensure that the insolvency resolution process is conducted in a manner that upholds the objectives of the Code and protects the interests of all stakeholders”.*

12.4 In light of the aforesaid legal position, it is now proposed to bring out the various instances of material irregularities committed by the Applicant/RP which have vitiated the entire insolvency resolution process of the Corporate Debtor in the present case.

12.5 **First and foremost, it is noticed that the RP has made a False and Misleading Representation of the Corporate Debtor as “owner” of certain land in the Information Memorandum:** It is one of the mandatory and most significant duties of the resolution professional under Section 25(2)(g) to prepare the information memorandum in accordance with Section 29 of the Code. Section 29 mandates that the resolution professional shall prepare an Information Memorandum in such form and manner containing such relevant information as may be specified by the Board

for the purpose of formulating a resolution plan. As per Regulation 36(2) of CIRP Regulations, the Information Memorandum shall contain all relevant information which serves as a comprehensive document conveying significant information about the Corporate Debtor including its operations and financial statements to the prospective resolution applicants. The Information Memorandum shall *inter alia* contain details of all assets and liabilities of the Corporate Debtor as on the insolvency commencement date with such description as is generally necessary for ascertaining their values. Coming to facts of the present case, upon perusal of Part 9 of the Information Memorandum prepared by the Applicant/RP dealing with “Details of the Security held by the Secured Financial Creditors”, it is noticed that the RP has given details of the securities held by the Canara Bank (Financial Creditor and sole CoC Member) against Credit Facilities availed by the Corporate Debtor and para B of the same reads as under:-

*“B.       **All that piece and parcel of the mortgaged properties of land measuring 14230.60 sq. meters bearing plot no.661-B, 641, 660, 637, 658-B, 659, 666, 665-A, 649, 664-A, 648, 617-A and 611 situated at Village Shimpoli, Borivali (West) popularly known as Haridas Nagar Housing Cooperative Society Ltd owned by the company and proposed superstructure of the project Pushp Vinod-6” (emphasis supplied).***

12.6 After the instant IA was filed by the RP with this Adjudicating Authority seeking approval of the Resolution Plan, two **IA Nos.(Inv.)74/2025 and 2818/2025** were filed by Brijesh Haridas Nagar Co-operative Housing Society Ltd. and a group of seven individual flat owners *inter alia* objecting to the allegedly wrongful inclusion of the land bearing new final Plot No.707 (old Plot Nos.648 and 649) and Plot No.637 situated at Village Shimpoli, Borivali (West), Mumbai respectively in the proposed

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Resolution Plan and praying for exclusion of the same from the said Plan. The applicants claimed that they were the rightful owners of the said land and buildings which were constructed thereon and that the Corporate Debtor had no right, title or interest therein.

12.7 It is also observed from the record that the Corporate Debtor had executed a Simple Mortgage Deed dated 26.03.2013 in favour of the Canara Bank mortgaging the following properties against credit facilities availed by the former:-

*“Plot No.661-B, 641, 660, 837, 958, 659-B, 666, 665-A, 649, 664-A, 648, 617-A and 611 situated at Village Shimpoli, Borivali (West), Mumbai known as Haridas Nagar Housing Co-operative Society Limited, Sector-1 and Sector-2 admeasuring 14230.60 sq. meters (sic)”.*

A perusal of the said Simple Mortgage Deed reveals that the Corporate Debtor had agreed to give security of the aforesaid land to the mortgagor, Canara Bank towards grant of credit facilities up to Rs.75 Crores for the purpose of *“Re-development of project Pushp Vinod-6 namely as Haridas Nagar Co-operative Housing Society Limited (sic)”*. Being a Simple Mortgage Deed, it did not require transfer of possession or ownership to the mortgagee Bank.

12.8 On perusal of the materials available on record, it was observed that the Resolution Professional had not furnished any proof of “ownership” of the said plots of land situated at Village Shimpoli, Borivali (West), Mumbai known as Haridas Nagar Housing Co-operative Society Limited on part of the Corporate Debtor. Accordingly, the RP was asked vide order dated 20.11.2025 to furnish supporting documents based on which the entire land admeasuring 14230.60 sq. meters situated at Village Shimpoli, Borivali (West), Mumbai was shown to be “owned” by the Corporate

Debtor right from the initial stage of preparation of Information Memorandum through intermediate stage of issuing RFRP till approval of Resolution Plan by the CoC. The RP in paragraph 7 of its Additional Affidavit dated 01.01.2026 has submitted its response as under:-

*“.... the same has been **inadvertently mentioned as owned**, based on the description as contained in 'Schedule-B' appended notice dated 12.12.2023 issued by Canara Bank under Section 13(2) of Securitization and Reconstruction of Financial Assets and Enforcement of Securities Interest Act, 2002. **However, upon cross verifying the records of the Corporate Debtor, it is clarified that the said larger property admeasuring 14230.60 sq. mtrs. situated in Village Shimpoli, Borivali (West) is not owned by the Corporate Debtor and that the Corporate Debtor has only development rights (including the right to redevelop) in respect thereof. I submit that any inadvertent error in this regard may be condoned. I further state that the Successful Resolution Applicant is aware of the correct nature of the rights of the Corporate Debtor, based on the records available” (emphasis supplied).***

12.9 The aforesaid response of the RP, to say the least, is shocking and bewildering. It is intriguing to note that “based on the records available”, it is neither the RP nor anyone else in the outside world but only Authum who has been able to fathom and grasp “the correct nature of the rights of the Corporate Debtor”, while the RP himself being the author or preparer of the Information Memorandum commits a major blunder in classifying the rights of the Corporate Debtor as ownership rights and still has the temerity to claim that the said glaring mistake was merely an “inadvertent error” which may be condoned. All this clearly shows that the RP has been grossly negligent and careless and has miserably failed to exercise due

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diligence in performing its statutory duties under Sections 18, 25 and 29 of the Code. It is shocking to note that the aforesaid Borivali land measuring 14230.60 sq.mtrs. has even been taken into account while conducting valuation of assets of the Corporate debtor by the registered valuers appointed by the Applicant/RP. Such false and misleading representation of the Corporate Debtor as the “owner” of aforesaid land parcels in the Information Memorandum had the effect of heavily distorting the Corporate Debtor’s valuation and undermining the fairness and transparency required in conducting the corporate insolvency resolution process.

12.10 Section 18(1)(f) of the Code mandates that the IRP/RP shall take control and custody of any assets over which the Corporate Debtor has ownership rights as recorded in the balance sheet of the Corporate Debtor etc. Similarly, Section 25(2) of the Code also requires the RP to take immediate custody and control of all the assets of the Corporate Debtor. Coming to the present case, if the Applicant/RP had exercised due diligence in taking custody and control of the aforesaid pieces of land upon reference to the balance sheet of the Corporate Debtor, he would have instantly come to know that the Corporate Debtor actually did not have any ownership rights over the said land. The question whether the Corporate Debtor had any legally valid development rights in the said land in terms of Agreements dated 02.05.2009 and 09.03.2012 is being dealt with in the succeeding part of this order. Further, if the true nature of rights of the Corporate Debtor was so clear from “the records available”, neither the Corporate Debtor would have treated it as ownership rights nor was there any occasion for the objectors (viz., Brijesh Haridas Nagar Co-operative Housing Society Ltd. and individual flat owners) to approach this Adjudicating Authority inviting attention to

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the wrongful inclusion of the land on which the houses of its members were constructed in the proposed Resolution Plan and praying for exclusion of the same from the said Resolution Plan. Thus, the inescapable conclusion is that the Applicant/RP, instead of exercising due care and diligence, had acted in collusion and connivance with the suspended management of the Corporate Debtor and made gross misrepresentation of assets owned by the Corporate Debtor in the Information Memorandum, thereby undermining the fairness, legality and integrity of the whole process.

12.11 Secondly, it is noted that the Applicant/RP has made brazen **attempts to mislead the Adjudicating Authority** by resorting to blatant **misrepresentation of facts**. For example, the averment made by the Applicant/RP in the Additional Affidavit dated 01.01.2026 that Authum “*is aware of the correct nature of the rights of the Corporate Debtor*” is found to be totally contrary to the evidence available on record. In this connection, it is pertinent to mention that while submitting its Resolution Plan, Authum has clarified in Schedule 3 thereof that “*the following assets of the Corporate Debtor that were earlier charged in favour of the Financial Creditors... shall be released by the Financial Creditors (FCs) on the Implementation Date and shall not form a part of the FC NCDs (Non-Convertible Debentures) Security:*

- (i) *All that piece and parcel of the mortgaged properties of land measuring 14230.60 sq. meters bearing Plot No.661-B, 641, 660, 637, 958, 658-B, 659, 666, 665-A, 649, 664-A, 648, 617-A and 611 situated at Village Shimpoli, Borivali (West) popularly known as Haridas Nagar Housing Co-op Society Limited (Haridas Nagar)”.*

This makes it very clear that Authum presented its Resolution Plan based on the firm belief that the aforesaid pieces and parcels of land located at Village

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Shimpoli, Borivali (West) represented the assets owned by the Corporate Debtor.

It is relevant to note that even the Applicant/RP has issued the Letter of Intent dated 01.04.2025 to Authum on identical lines incorporating release of aforesaid securities/assets of the Corporate Debtor in favour of Authum by the Financial Creditor/ Canara Bank.

12.12 Again, it is pertinent to note that in its Affidavit dated 01.01.2026, the Applicant/RP tried to misrepresent facts and to hoodwink this Adjudicating Authority by placing on record copies of the purported commencement certificates issued by MCGM for some housing project (other than PV 6 project) which were found to be pertaining to the periods 1987-90 whereas the Corporate Debtor itself was incorporated on 11.02.1994 and the Agreements purportedly executed for undertaking redevelopment of PV 6 project were executed on 02.05.2009 and 09.03.2012. It was only after the Applicant/RP was confronted on this aspect that in its Additional Affidavit dated 05.03.2026, the RP categorically admitted that no development work had been carried out at PV 6 project and that since there was no construction activity undertaken by the Corporate Debtor pursuant to the Agreements dated 02.05.2009 and 09.03.2012, there existed no Commencement Certificate, Occupation Certificate etc. in the name of the Corporate Debtor.

**13. And finally, there is no clarity at all in the Information Memorandum with regard to nature of rights acquired by the Corporate Debtor under the Agreements dated 02.05.2009 and 09.03.2012:** In order to understand the true nature of rights acquired by the Corporate Debtor under the Agreements dated 02.05.2009 and 09.03.2012, it will be worthwhile to analyse the major terms and conditions of the said Agreements as under:-

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- (i) Both the Agreements have been executed between M/s.Dattani Constructions as the Developers and the Corporate Debtor as the Sub-Developers with Haridas Nagar Cooperative Housing Society Ltd. (HNCHSL) being the original owners of the land situated at Shimpoli, Borivali (West), Mumbai acting as the Confirming Party.
- (ii) By an Agreement dated 26.09.1986, HNCHSL had granted development rights in respect of the said plots of land to M/s.Dattani Developers.
- (iii) The said plots of land are stated to be divided into Sector-I and Sector-II.
- (iv) Agreement dated 09.03.2012 deals with grant of “development rights” in respect of Final Plot Nos.635-637 located in Sector-I admeasuring 3939.30 sq. mtrs., while the Agreement dated 02.05.2009 pertains to “development rights” in respect of New Final Plot No.707 (old Final Plot Nos. 648, 649, 664A, 665A, 666) of TPS-III, Borivali situated in Sector-II admeasuring 7642.30 sq. mtrs.
- (v) As per the recitals in each Agreement, M/s.Dattani Developers either themselves or through sub-developers had constructed various buildings in both Sector-I and Sector-II which have been specifically named in each Agreement. The total area occupied by the five constructed buildings in Sector-I is stated to be 6655.31 sq.mtrs. carpet. The total FSI used in Sector-II on construction of Building No.1 (Hrishikesh) and Building No.2 is declared at 8234.95 sq. mtrs.

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- (vi) M/s.Dattani Developers and HNCHSL agreed to grant “development rights” of the concerned land to the Sub-Developers/Corporate Debtor on “as is where is” basis.
- (vii) To be specific, M/s.Dattani Developers agreed to sell *“the additional construction permissible as per present policy/future policy by way of TDR, additional FSI, remaining FSI available in the layout”* in both Sector-I and Sector-II to the Corporate Debtor as under:-

| Sector | Consideration/<br>Market Value     | FSI/TDR<br>available           | Manner of utilization                             |
|--------|------------------------------------|--------------------------------|---------------------------------------------------|
| I      | Rs.25 lakhs/<br>Rs.1,89,57,500/-   | 605.66 sq.mtrs.                | Re-development<br>(Agreement dated<br>09.03.2012) |
| II     | Rs.2.91 crore/<br>Rs.4,31,22,752/- | 70677.93 sq.ft.<br>(tentative) | Re-development<br>(Agreement dated<br>02.05.2009) |

It deserves to be noted that the purported sale of so-called “development rights” was made for a consideration far below the market value indicating collusion among the parties. Further, it is to be noted that the additional/permitted FSI was agreed to be consumed *“by demolishing”* the existing buildings constructed in each Sector *“and re-accommodating all the flat owners by putting up a Tower building.....either for commercial use or residential use or as deemed fit by the Sub-Developers”/Corporate Debtor.*

- (viii) Clause 6 of the Agreement dated 02.05.2009 and clause 7 of the Agreement dated 09.03.2012 made it clear that the development rights were being granted to the Sub Developers/Corporate Debtor on “as is

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where is” basis and that “*it shall be the **sole responsibility of the Sub Developers to get consent, if necessary, of the flat purchasers and obtain sanction of plan for redevelopment, IOD, CC and all such other permissions as may be necessary for commencing redevelopment of the said property**”.*

13.1 Thus, it clearly emerges that both the Agreements dated 02.05.2009 and 09.03.2012 are essentially in respect of grant of re-development rights of the concerned properties by M/s.Dattani Constructions and HNCHSL to the Corporate Debtor. However, in this connection, it is pertinent to note that HNCHSL had originally granted development rights in respect of the larger property mentioned in Paragraph 12.11.(i) above to M/s.Dattani Constructions vide Agreement dated 26.09.1986 copy of which has been placed on record by Brijesh Haridas Nagar Cooperative Housing Society Ltd. in its intervention IA No.74/2025. Therefore, the terms of Agreements dated 02.05.2009 and 09.03.2012 cannot be viewed in isolation but the same must be appreciated in light of the nature, extent and scope of the rights originally granted by HNCHSL to M/s.Dattani Constructions under the Agreement dated 26.09.1986.

13.2 As per Clause 1 of the Agreement dated 26.09.1986 between HNCHSL and M/s.Dattani Constructions, the Developer viz., M/s.Dattani Constructions shall develop the said property by completing the construction as per the lay-out and the I.O.D. (Intimation of Disapproval) already obtained which may be amended from time to time and carry out all the work of construction and development and provide the requisite amenities in the building to be constructed having flats of agreed built-up area as per approved plan. For the purpose of development of the said land for

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carrying out the work on the said land, the Developers will be entitled to appoint from time to time such agents or sub-agents or other builders and developers who will have the same rights and be subject to the same obligations as the Developers. As per clause 19, the Developer will be entitled to carry out development work in respect of the said sub-divided plots on their own and/or through other agencies and/or by appointing separate builders and sub developers for one or more plots separately. *“The Builders and sub-developers so appointed by the Developers shall have the same rights and be subject to the same obligations in regard to the plots for which they are appointed builders and sub-developers as the Developers have and as are in regard to all the sub-plots”.*

- 13.3 On careful perusal of the terms and conditions of the aforesaid Agreement dated 26.09.1986, it thus becomes crystal clear that HNCHSL had only granted “development rights” in respect of the plots and sub-plots of land in question to M/s.Dattani Constructions. Once the said land along with necessary infrastructure was developed, residential buildings with desired amenities were constructed, flats were sold/allotted to respective purchasers/allottees and possession thereof was handed over till 1992, the Developer, i.e., M/s.Dattani Constructions was left with no right, title or interest in the said land or buildings purchased by the flat owners. In other words, what emerges is that the Developer was not conferred any rights whatsoever at all under the said Agreement to sell or transfer any remaining FSI or additional FSI/TDR arising in terms of future policy to third parties after a lapse of time period of over 20-25 years. It is a settled principle of law that no one can confer a better title than what they themselves possess. Therefore, M/s.Dattani Constructions itself not having any redevelopment rights in the land and buildings

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constructed thereon could by no means have effected any legally valid transfer of such rights in favour of the Corporate Debtor. Mere registration of the Agreements dated 02.05.2009 and 09.03.2012 will be of no avail, because registration alone does not confer ownership, as held by the Hon'ble Supreme Court of India in **K. Gopi vs. Sub-Registrar and Others (2025 SCC OnLine SC 740)**. It is well-settled that ownership is determined by valid title, possession and compliance with statutory requirements and even if a registered document exists, it does not transfer rights which the executant does not possess.

13.4 Further, it is pertinent to note that while executing both the Agreements dated 02.05.2009 and 09.03.2012, the parties have not complied with the terms of the Maharashtra Government's "Directive for Redevelopment of Building of Co-operative Housing Society" dated 03.01.2009 issued under Section 79A of Maharashtra Cooperative Societies Act, 1960 *inter alia* requiring express consent of members not of the Apex Society (as done in the present case) but of the Society the building of which is to be redeveloped, appointment of Architect/ Project Management Consultant (PMC) by concerned Society, preparation of redevelopment project report by the Architect/PMC and its consideration and approval by the Society concerned, inviting tenders or quotations from experienced developers having regard to the carpet area or corpus fund fixed, selection of suitable Developer from among the bidders followed by execution of a registered agreement with the said Developer containing details of carpet area to be allotted, timelines for completing redevelopment project, submission of Bank Guarantee equal to 20% of the project cost, provision of alternative accommodation or payment of monthly rent and deposit to members, etc. In this regard, the Hon'ble Bombay

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High Court has consistently held that the 2009 Directive acts as a "broad roadmap" for housing society redevelopment and that minor deviations or procedural lapses will not automatically invalidate a redevelopment project, provided there is material and substantial compliance and the decision is backed by the majority of the society's members [*M/s.Maya Developers vs. Neelam R. Thakkar and ors.* (2016) SCC OnLine 6947 Bom]. In view of the 2009 Directive, thus, redevelopment rights could not be transferred from one developer to another at their whims or fancies. On the contrary, the selection of a suitable developer for the purpose was declared to be the prerogative of the Society seeking redevelopment of its existing building. However, what emerges in instant case is that both the Agreements dated 02.05.2009 and 09.03.2012 are in the teeth of the 2009 Directive and outrightly fail to meet the test of material and substantial compliance with the 2009 Directive and accordingly these cannot be taken to be legally valid.

13.5 Furthermore, it is noticed that the Agreements dated 02.05.2009 and 09.03.2012 are prima facie heavily one-sided agreements, suffering from vague, uncertain and unclear terms and conditions and accordingly deserve to be treated as void for uncertainty in terms of Section 29 of the Indian Contract Act, 1872. For example, there is no clear-cut demarcation of area and exact identification of the existing buildings to be re-developed by the Corporate Debtor. Again, there is no mention of contractual and financial obligations of the Corporate Debtor/ Sub-Developer such as project deliverables, carpet area entitlements, timelines, corpus fund deposit, penalty for delay, performance guarantee etc. It is a matter of record that the Corporate Debtor never acted on these agreements in as much as no development/ redevelopment activities were actually carried out at PV-6 project by

the Corporate Debtor, as admitted by the Applicant/RP. It appears that these agreements were executed merely to obtain and thereafter siphon off huge Term Loans from the Syndicate Bank. As per the Investigation report of Syndicate Bank dated 05.08.2015, bogus/fake CA certificates were furnished to the Bank showing utilization of earlier borrowed funds so as to obtain further disbursements. The loan amounts were then misutilized and diverted to related entities ultimately leading to the declaration of the loan accounts of the Corporate Debtor by the Canara Bank, sole CoC member as “fraud” on 25.02.2026, albeit much after the approval of the resolution Plan by the CoC on 27.03.2025.

**14. Failure of the Applicant/RP to comply with Regulation 35A of CIRP**

**Regulations:** Regulation 35A mandates that where the corporate debtor has been subjected to any transactions covered under Sections 43, 45, 50 or 66 of the Code, the RP shall form an opinion, make a determination and apply to the AA for appropriate relief on or before 75<sup>th</sup> day, 115<sup>th</sup> day and 130<sup>th</sup> day of the insolvency commencement date. The RP is required under Regulation 35A(3A) to forward a copy of the application to the PRAs to enable them to consider the same while submitting the resolution plans within the initially stipulated time. In the instant case, however, it is noticed that the conduct of the RP on this count has been one of gross negligence bordering on collusion and connivance with the Corporate Debtor as well as the Canara Bank, sole-member of the COC.

14.1 It is a matter of record that no application under Section 66 of the Code had been preferred by the RP till the filing of the present application on 03.04.2025 seeking approval of the Adjudicating Authority to the Resolution Plan. As per Section 20(2)(a) of the Code, the IRP/RP has the authority to appoint transaction and

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forensic auditors to investigate the affairs of the Corporate Debtor so as to identify transactions covered under Sections 43, 45, 50 and 66 of the Code. However, it is noticed from the record that the manner of selecting the Transaction Auditor, Arun M. Agarwal & Associates, CAs by the RP is itself questionable. There is no valid reason or explanation for appointment of one and the same Transaction Auditor by both the RP and the CoC/Canara Bank and for the insistence of the CoC/Canara Bank on the RP to do so. It defies logic as to how the said Transaction/Forensic Auditor failed to identify major transactions of diversion of funds to its related parties by the Corporate Debtor and why the CoC/Canara Bank did not confront the Transaction/Forensic Auditor with the findings of the Investigation Report of Syndicate Bank dated 05.08.2015 on this count.

14.2 It is pertinent to mention that the Applicant/RP has furnished the Provisional Financial Statement of the Corporate Debtor as on 11.03.2024 (insolvency commencement date) in the Information Memorandum and annexed it to the present IA. A perusal of Page 111 of the said IA reveals “unquoted” investment of Rs.82 crores by the Corporate Debtor in its related company, namely, Vas Educomp Pvt. Ltd. which apparently represents diversion of funds warranting action under Section 66 of the Code. As per the Investigation Report of Syndicate Bank dated 05.08.2015, based on analysis of financial statements, Vas Educomp Pvt. Ltd. was identified as a defunct or shell company having no fixed assets or inventories. However, it is intriguing to find that both the CoC/Canara Bank and the Applicant/RP had accepted the transaction/forensic audit report of Arun M. Agarwal & Associates, CAs without any whimper or demur.

- 14.3 The conduct of the Applicant/RP in not filing application under Section 66 of the Code within the prescribed time despite diversion of borrowed funds by the Corporate Debtor to its related parties demonstrates flagrant violation of mandate of Regulation 35A of CIRP Regulations. Consequently, no opportunity could be given to the PRAs to consider the same while submitting their resolution plans, thereby defeating and frustrating the objective of maximisation of value of assets of the Corporate Debtor. After persistent follow-up by the Adjudicating Authority, the Applicant/RP subsequently filed application bearing IA No.1226 of 2026 on 19.03.2026 under Section 66 of the Code (and that too without considering diversion of funds to the tune of Rs.82 crores to Vas Educomp Pvt. Ltd.) at a belated stage much after the approval of the Resolution Plan by the CoC, which will not mitigate the blatant non-compliance of the statutory provisions by the Applicant/RP.
- 14.4 Further, the Applicant/RP committed blatant non-compliance with the mandate of Regulation 39(2) of CIRP Regulations by not placing details of fraudulent transactions under Section 66 along with the resolution plans before the CoC for its consideration. To sum up, the overall conduct of the Applicant/ RP throughout the insolvency resolution process betrays not only gross negligence, deliberate concealment and misrepresentation of material facts and non-adherence to relevant CIRP Regulations but also active collusion and connivance with the suspended management of the Corporate Debtor. **We find it to be a fit case for making reference to the IBBI to investigate into the conduct of the Applicant/RP in the matter and initiate appropriate disciplinary action against the Applicant/RP as warranted under the Code and the relevant Regulations.**

**15. Role of Financial Creditor and sole CoC Member (Canara Bank):**

15.1 Regulation 35A(4) of the CIRP Regulations provides that the creditors shall provide to the RP relevant extracts from the audits of the corporate debtor conducted by the creditors such as stock audit, transaction audit, forensic audit etc. However, in the present case, it is a matter of record that Canara Bank failed to fulfil its mandatory duty to share copy of relevant extracts of its transaction audit/forensic audit reports with the RP.

15.2 During the course of hearing of the instant application, the Canara Bank being the Financial Creditor was called upon vide order dated 03.02.2026 to place on record copy of report of Transaction Audit of the Corporate Debtor and also to clarify whether such Transaction Audit had yielded evidence of diversion of borrowed funds by the Corporate Debtor to its related parties. The Canara Bank vide Affidavit dated 05.03.2026 filed copy of the investigation report of Vigilance Department of Syndicate Bank, Bangalore dated 05.08.2015. On perusal of the said report, it was *inter alia* noticed that the Corporate Debtor had diverted substantial borrowed funds to its group/sister concerns by routing them through multiple accounts. It was reported that certain group concerns involved in the transactions were neither carrying on substantive business activities nor generating commensurate business income and appeared to function as shell or conduit entities; that as per the Annual Reports, Precision Containers Ltd. and Yashraj Containers Ltd were BIFR companies which had defaulted in payment; that Precision Containers Ltd. was a loss-making and defunct company and further that Vasparr Shelter Ltd. and Vas Educomp Pvt. Ltd. were set up as investment companies but were having no fixed assets or inventories. It was also reported that no work had been started on the PV-6 project and the existing buildings were continuing. In its Affidavit dated

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20.04.2026, the Canara Bank has categorically stated that *“the Corporate Debtor has not submitted any commencement certificate, occupancy certificate or any other documents relating to Pushp Vinod-6 project”*. Similarly, the Corporate Debtor had not been able to make any headway in the construction Pushp Vinod 8, 10 and 17 projects.

15.3 However, it is noted that the aforesaid findings of the Investigation Report dated 05.08.2015 with regard to diversion of funds to sister concerns were suppressed by the Canara Bank/sole CoC member during the course of CIRP and not at all shared with the Applicant/RP. Non-disclosure of such findings by the sole CoC member to the Applicant/RP right up to the approval of the Resolution Plan indicates possibility of collusion at concerned level of the Bank with the suspended management of the Corporate Debtor. It is also pertinent to note that the Canara Bank has so far not taken any steps to initiate any proceedings against the suspended management of the Corporate Debtor under Section 73 of the Code for committing the offence of making false representation regarding “ownership” of aforesaid Borivali land prior to the insolvency commencement date for the purpose of obtaining Term Loans against mortgage of the said land. **The Chairman, Canara Bank may like to look into this matter and take such necessary corrective steps in this behalf as deemed fit.**

16. In the backdrop of emergence of shocking revelations at the stage of approval of Resolution Plan before the Adjudicating Authority and the findings in paragraphs 12.5 to 15.3 above, the material irregularities committed by the RP in the conduct of CIRP have been totally exposed as well as fraud and collusion of RP with the suspended management of the Corporate Debtor which had the effect of vitiating

the entire insolvency resolution process, frustrating the very objective of the process and undermining its sanctity, integrity, fairness and transparency. To conclude, we find that the present case fully satisfies the three-point approach directed by the Hon'ble NCLAT in the recent matter of ***Nimai Gautam Shah (RP) v. Raj Radhe Finance Ltd. and Ors.*** (2026) ibclaw.in 537 NCLAT to be adopted by the Adjudicating Authority while approving a Resolution Plan in so far as it is found that (i) both the Applicant/RP and the CoC have failed to discharge their statutory duties consistent with statutory provisions; (ii) the RP has acted in brazen breach of statutory provisions and the Regulations and committed glaring material irregularities in the conduct of the insolvency resolution process of the Corporate Debtor and (iii) our examination of the matter has unravelled tangible facts disclosing that false and misleading representations had been made in regard to the assets of the Corporate Debtor and transactions of fraudulent trading/wrongful trading covered under Section 66 of the Code had been suppressed, thereby shaking the very foundations of integrity, purity and sanctity of the resolution process.

### **ORDER**

- I. In view of the aforesaid findings, **IA (I.B.C.)(Plan) No.41/MB/2025 in C.P.(IB) No.314/MB/2023** filed for approval of the Resolution Plan submitted by Authum Investment and Infrastructure Limited **is rejected**.
- II. Consequently, **Invp No.74/2025** and **IA No.2818/2025** filed by Brijesh Haridas Nagar Co-operative Housing Society Limited and Deepak Amrutlal Desai and Ors., respectively praying for exclusion of their plots of

land and buildings situated thereon from the Resolution Plan in question have **become infructuous and the same are accordingly dismissed.**

- III. However, having regard to the insolvency resolution and revival of the corporate persons as the primary objective of the Code, we deem it appropriate to **direct re-initiation of the Corporate Insolvency Resolution Process** of the Corporate Debtor.
- IV. In view of above findings demonstrating gross negligence, collusion etc. on part of the Applicant/RP in discharge of its duties in conducting the CIRP, the CoC may take appropriate decision for replacing the present RP to re-initiate the insolvency resolution process right from the preparation of fresh Information Memorandum and issuance of fresh Form-G inviting expression of interest after disclosing all required information therein correctly and properly in strict compliance with the provisions of the Code and the CIRP Regulations.
- V. Such CIRP shall be completed within 120 days from the date of uploading of this order and no extension of such period shall be allowed under any pretext, since a period of over 390 days has already elapsed from 11.03.2024 (Insolvency Commencement Date) to 27.03.2025 (date of submission of Resolution Plan) for completing CIRP of the Corporate Debtor.
- VI. The Registry is directed to forward a copy of this order to **the Chairman, IBBI** for investigating the conduct of the RP and considering initiation of

appropriate disciplinary action against the RP in accordance with the Code and the Regulations framed thereunder.

- VII. The Registry is directed to forward a copy of this order to **the Chairman, Canara Bank** for necessary action in terms of our observations contained in paragraphs 15.1 to 15.3 above, as deemed fit.

**Sd/-**

**SANJIV DUTT**  
**MEMBER (TECHNICAL)**  
//LRA-Tanmay Jain//

**Sd/-**

**ASHISH KALIA**  
**MEMBER (JUDICIAL)**

**NATIONAL COMPANY LAW TRIBUNAL**  
**MUMBAI BENCH COURT II**

Item No. 102

**IA 2770/2026, IA (IBC) (Plan)/41/2025, IA 2818/2025, IA 5564/2024 &**  
**IA 3031/2025 in C.P.(IB)/314(MB)2023**

CORAM

**SHRI SANJIV DUTT**  
**HON'BLE MEMBER (TECHNICAL)**

**SHRI ASHISH KALIA**  
**HON'BLE MEMBER (JUDICIAL)**

ORDER SHEET OF HEARING (HYBRID) DATED **07.07.2026**

NAME OF THE PARTIES: **Canara Bank**

**Vs**

**Vas Infrastructure Limited**

**Appearance:**

**For Applicant in IA 2770/2026 &**

**IA 5564/2024** : Adv. Yahya Batatawala

**For Applicant/Intervenor Society**

**in IA 3031/2025** : Adv. Ajit Anekar a/w Adv. Siddhant Sawhney I/b Auris  
Legal for

**For Applicants/Intervenors in**

**IA 2818/2025:** Adv. Ajit Anekar a/w Adv. Siddhant Sawhney I/b Auris  
Legal for

**For Respondent in IA 3031/2025** : Adv. Yahya Batatawala

**For Respondent Nos.1 to 5 in**

**IA 5564/2024** : Adv. Jyoti Singh a/w Ashish Jain, Advocates i/b AJA  
legal,

**U/s 7 of (IBC), Sec 66(1), Rule 11 of NCLT, 2016, Section 60(5) Sec 60(2),  
Sec. 45 (1), Sec 60(5)**

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**ORDER**

**IA 2770/2026**

List this matter for further consideration on **14.08.2026**.

**IA 5564/2024**

List this matter for further consideration on **14.08.2026**.

**IA 3031/2025**

Hence, the plan IA 41/2025 is rejected, **the above IA become infructuous.**

**Sd/-**  
**SANJIV DUTT**  
**MEMBER (TECHNICAL)**  
Shubham

**Sd/-**  
**ASHISH KALIA**  
**MEMBER (JUDICIAL)**