

IN THE NATIONAL COMPANY LAW TRIBUNAL
JAIPUR BENCH

CORAM: MS. REETA KOHLI,
HON'BLE JUDICIAL MEMBER
MS. KAVITA BHATNAGAR
HON'BLE TECHNICAL MEMBER

IA (IBC) No. 153/JPR/2026
CP No. (IB)- 14/7/JPR/2025

IN THE MATTER OF:

YASH DEV BHARDWAJ & ORS.

...Applicants/Financial Creditor

VERSUS

NINANIYA ESTATE LIMITED

...Corporate Debtor

MEMO OF PARTIES

IA (IBC) No. 153/JPR/2026

Yash Dev Bhardwaj

R/o 3 Oak Drive, DLF Chhatarpur Farms,
Hauz Khas, South Delhi, Delhi-110074.

...Applicant No. 1

Ankit Bhardwaj

R/o 3 Oak Drive, DLF Chhatarpur Farms,
Hauz Khas, South Delhi, Delhi-110074.

...Applicant No. 2

Pooja Bhardwaj

R/o 3 Oak Drive, DLF Chhatarpur Farms,
Hauz Khas, South Delhi, Delhi-110074.

...Applicant No. 3

Anuja Bhardwaj

R/o 3 Oak Drive, DLF Chhatarpur Farms,
Hauz Khas, South Delhi, Delhi-110074.

...Applicant No. 4

Yash Dev & HUF, through its Karta,

Yash Dev Bhardwaj

R/o 3 Oak Drive, DLF Chhatarpur Farms,
Hauz Khas, South Delhi, Delhi-110074.

...Applicant No. 5

Versus

Sd/-

Sd/-

M/s Ninaniya Estates Ltd.,
160, Karni Viha Ajmer Road,
Near Rawat Mahila College, Jaipur, Rajasthan

...Respondent

For the Financial Creditor : Amol Vyas, Adv.
Abhishek Purohit, Adv.
For the Corporate Debtor : Sonal Anand, Adv.
Surbhi Singh, Adv.

Order Pronounced On: 07.08.2026

ORDER

Per: Ms. Reeta Kohli, Judicial Member

1. The present application has been filed by *Yash Dev Bhardwaj & Ors.* ('Applicants') under Section 60(5) of the Insolvency and Bankruptcy Code, 2016 ('the Code') read with Rule 11 of the National Company Law Tribunal Rules, 2016, seeking withdrawal of the present company petition bearing *C.P. (IB) No. 14/7/JPR/2025* with liberty to file a fresh application under Section 7 of the Code.
2. The Applicants herein, being the Financial Creditors, had preferred the main Company Petition bearing *C.P. (IB) No. 14/7/JPR/2025*, under Section 7 of the Code, seeking initiation of the CIRP against the Corporate Debtor, namely, *M/s Ninaniya Estate Ltd.*
3. It is contended by the counsel of the Applicant that while filing the main petition under Section 7 of the Code, the date of default was erroneously mention as 17.01.2021, however, the actual and correct date of default is 24.08.2021.

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4. The Applicant had preferred an application bearing *IA (IBC) No.371/JPR/2025* seeking permission to amend the date of default in Part-IV. The said application was dismissed by this Adjudicating Authority *vide* order dated 13.01.2026.
5. Aggrieved by the order of rejection, the Applicant preferred an appeal bearing *Company Appeal (AT) (INS) No. 289 of 2026* before the Hon'ble NCLAT, Principal Bench at New Delhi.
6. The Hon'ble NCLAT while disposing of the appeal *vide* order dated 19.02.2026 observed as under:-

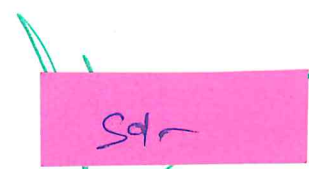
“Ld. Counsel for the appellant submits that he seeks leave to file a fresh Section 7 application. It is open for the appellant to make an application seeking leave of the Adjudicating Authority for filing a fresh application and it is for the Adjudicating Authority to decide it in accordance with law.”

7. It is in view of the abovesaid observations by the Hon'ble NCLAT that the applicant is seeking permission to file a fresh petition under Section 7.
8. To substantiate his contention, the Ld. Counsel for the Applicant has relied upon the judgment of Hon'ble NCLAT in the case of *SREI Equipment Finance Limited Vs. RS Kamthe Infrastructure Developers Private Limited* (2026) ibclaw.in 83 NCLAT wherein it has been held that the Financial Creditor may not approach the NCLT by filing Section 7 petition on the first default but may chose to file on any subsequent default. Hence, the counsel contends that while disposing off the present Company Petition, permission to file the fresh Company Petition deserves to be granted.

Sd/-

Sd/-

9. On the other hand, Ld. Counsel for the Respondent has vehemently objected to grant of permission for filing the fresh petition primarily on the ground that this Adjudicating Authority *vide* order dated 13.01.2026 has already declined the prayer of the applicant seeking amendment in the date of default, after having appreciated the contents of the reply filed by the Corporate Debtor.
10. The Counsel for the Respondent further submitted that in the present case the default falls within the ambit of Section 10A of the Code and the Financial Creditor is attempting to wriggle out of the legal bar of Section 10A by praying for change of date of default and the same has been recorded by this Adjudicating Authority in its order dated 13.01.2026. Therefore, in view of the finding recorded in the order dated 13.01.2026 and also in view of the fact that the Hon'ble NCLAT *vide* order dated 19.02.2026 has been pleased to reaffirm the order dated 13.01.2026, the instant application should not be allowed.
11. It is further contended by the Ld. Counsel the Respondent that no liberty has been granted by the Hon'ble NCLAT *vide* its order dated 19.02.2026 in fact the observations in the order of the Hon'ble NCLAT are generic in nature. The said observations came only when the appellant sought permission to file a fresh Section 7 application. Therefore, in view of the facts and circumstances of the present case no permission to file fresh CP deserves to be granted.



12. The Counsel for the Respondent has relied upon the Judgment of Hon'ble Supreme Court in the case of *Ramesh Kymal Vs. Siemens Gamesa Renewable Power Pvt. Ltd.* (2021) 3 SCC 224 wherein the Hon'ble Supreme Court has been pleased to hold that no application shall ever be filed for the default having occurred during the *COVID-19 Pandemic*. The Hon'ble Supreme Court has held that the intent of the legislature is to bar the institution of any application for the commencement of CIRP in respect of a default which has occurred on or after 25.03.2020 for a period of six months extendable up to one year as notified. Therefore, the counsel submitted that the embargo contained in Section 10A should receive a purposive construction to advance the object.
13. We have heard the Ld. Counsels for the parties and appreciating their contentions. In view of the facts and circumstances of the case, we deem it appropriate to allow the permission to the Applicant-Financial Creditor to withdraw the present Company Petition. Hence, *CP (IB) No. 14/7/JPR/2025* be treated as disposed off as withdrawn as far as the permission to file a fresh petition is concerned.
14. Further, it deserves to be taken note that the during the pendency of the present IA, an affidavit dated 24.04.2026 in compliance of the order dated 07.04.2026 has been filed. The relevant portion of the said affidavit is reproduced hereunder:-

“3. That it is explicitly stated that for the purpose of the fresh petition to be filed, I say and submit that Applicants shall not reply upon the dates 17.01.2021 and 24.08.2021 as the date of default, as the Hon’ble Adjudicating Authority has already adjudicated upon these dates in its previous orders.

4. It is states that there is a clear series of subsequent defaults also, as well as acknowledgment of an amount of Rs. 103 crore liability in the meeting held between the Applicant and the Corporate Debtor.”

15. On perusal of the affidavit dated 24.04.2026, it transpires that the Applicant has bound himself not to take any of the earlier stated dates of default i.e. 17.01.2021 and 24.08.2021 for the purpose of filing fresh petition under Section 7 of the Code. Consequently, the Applicant stands bound by its said undertaking and shall not be entitled to institute any fresh petition by treating the aforesaid dates as the dates of default.

16. It is further noticed that the Applicant has averred that there have been a series of subsequent defaults. It is a settled principle that each subsequent default *may* give rise to a separate and independent cause of action, if such a right is recognized under the applicable legal framework. However, this would apply only if the claim is otherwise maintainable in law and does not relate to the issues that are already the subject matter of the *CP No. 14/7/JPR/2025* which stands adjudicated so far as the date of default is concerned. Therefore, any subsequent default can be considered independently, provided it satisfies these legal requirements.

17. It is pertinent to mention that a party cannot be deprived of its statutory right to seek appropriate legal remedies before the competent forum. Accordingly,

liberty is granted to the Applicant to institute a fresh petition under Section 7 of the Code, strictly founded upon a date of default other than 17.01.2021 or 24.08.2021, provided such default is subsequent to the period covered under Section 10A of the Code and gives rise to an independent and legally sustainable cause of action.

18. Accordingly, in the above terms the present Interlocutory Application bearing *IA (IBC) No. 153/JPR/2026* is *allowed* and stands *disposed of*.
19. Thus, the main Petition bearing *CP No. 14/7/JPR/2025* is also *disposed of*.


REETA KOHLI
JUDICIAL MEMBER


KAVITA BHATNAGAR
TECHNICAL MEMBER