

**NATIONAL COMPANY LAW TRIBUNAL
CHANDIGARH BENCH, COURT-I, CHANDIGARH**



I.A. No.1181 of 2025
In
CP(IB) No. 98/Chd/Hry/2022
(Admitted)

*[Application Under Section 60(5) of the Insolvency and Bankruptcy Code 2016
read with Rule 11 of the National Company Law Tribunal Rules 2016]*

IN THE MATTER OF I.A. No.1181 of 2025:

1. Ajay Kishore Aggarwal

The Applicant is the Legal Representative of Ishwar Chand,
through their SPA holder Veneet Chand Gupta,
aged about 69 Years, son of Keshab Chand Gupta,
resident of Village Kundi Sector-20, Panchkula,
now resident of H.No.31 Sector-15, Panchkula

...Applicant No. 1

2. Kamal Kishore Aggarwal

The Applicant is the Legal Representative of Ishwar Chand,
through their SPA holder Veneet Chand Gupta,
aged about 69 Years, son of Keshab Chand Gupta,
resident of Village Kundi Sector-20, Panchkula,
now resident of H.No.31 Sector-15, Panchkula

...Applicant No. 2

Versus

1. Rahul Jindal (Interim Resolution Professional),

Osrik Resolution Pvt. Ltd, office at
109, Surya Kiran Building,
K.G Mag, New Delhi-11000.

.....Respondent No.1



2. M/s Samar Estate Pvt. Ltd.

through its Resolution Professional Rahul Jindal,
Osrik Resolution Pvt. Ltd, office at 109,
Surya Kiran Building, K.G Mag, New Delhi 110001.

.....Respondent No.2

3. Sh. Vinod Bagai

Former (Suspended) Director
of M/s Samar Estate Pvt. Ltd., Site office at GHS 105,
near Sun city, Sector 20, Panchkula -134112,
(2nd Address #87, Sector-7, Panchkula, District Panchkula).

.....Respondent No.3

4. Sh. Virender Bagai,

Former (Suspended) Director
of M/s Samar Estate Pvt. Ltd., Site office at GHS 105,
near Sun city, Sector 20, Panchkula -134112,
(2nd Address #87, Sector-7, Panchkula, District Panchkula).

.....Respondent No.4

**AND IN THE MAIN MATTER OF CP (IB) No. 98/Chd/Hry/2022
(Admitted):**

Punjab and Sind Bank

...Financial Creditor

Versus

Samar Estates Private Limited

...Corporate Debtor

Present:

For the Applicant

: Mr. N.S. Swaitch, Advocate
Ms Harshmir Kaur Swaitch, Advocate

For the Resolution Professional

: Mr. Aalok Jagga, Advocate
Mr. Sahil, Lohan, Advocate
Mr. Aryaman Jagga, Advocate
Mr. APS Madaan, Advocate
Ms. Vibhu Aggarwal, Advocate



Order delivered on: 13.08.2026

Coram: **SH. KHETRABASI BISWAL, HON'BLE MEMBER (JUDICIAL)**
 SH. SHISHIR AGARWAL, HON'BLE MEMBER (TECHNICAL)

ORDER

The present Application has been filed by Sh. Ajay Kishore Aggarwal, Applicant No.1 and Sh. Kamal Kishore Aggarwal, Applicant No.2 (hereinafter "the Applicants"), Legal Representatives of Late Sh. Ishwar Chand, acting through their Special Power of Attorney holder Sh. Veneet Chand Gupta, under Section 60(5) of the Insolvency and Bankruptcy Code, 2016 (hereinafter "the Code") read with Rule 11 of the National Company Law Tribunal Rules, 2016, against the Respondent No.1, Resolution Professional of M/s Samar Estates Pvt. Ltd. (hereinafter "the Corporate Debtor") and Respondent No. 2, 3 and 4 for seeking the following reliefs:

- "(i) direct Respondent Nos. 1 and 2 to release 0 Kanal 9 Marla (09/49 share) out of the total 2 Kanal 9 Marla comprised in Khasra No. 18/3, Village Kundi, Sector-20, Panchkula, in favour of the Applicants;*
- (ii) grant an ad-interim injunction restraining alienation, mortgage, or construction upon the said property pending disposal of the Application;*
- (iii) initiate action against Respondent No. 1 under Section 70 of the Code and make a reference to the Insolvency and Bankruptcy Board of India under Section 208(2) thereof; and*
- (iv) stay the CIRP/Resolution Plan proceedings until the said property is carved out and possession delivered to the Applicants."*



BRIEF FACTS OF THE CASE

2. The brief facts of the case, as pleaded by the Applicants, are summarised as follows.

- (i) The Applicants' predecessor-in-interest, Late Sh. Ishwar Chand, was originally recorded as owner of 150 Kanal 18 Marla of land, including Khasra No. 18/3, per the Jamabandi for the year 1999-2000. By two registered sale deeds dated 19.01.2007, Late Sh. Ishwar Chand sold 150 Kanal 9 Marla of this holding to the Corporate Debtor, through Respondent Nos. 3 and 4 in their capacity as directors thereof.
- (ii) The Applicants contend that a residual 0 Kanal 9 Marla, being a 09/49 share of Khasra No. 18/3, was retained by their predecessor and was never conveyed, and that it came to be enclosed within the boundary wall of the 'Ess Vee Apartments' project in sector 20 Panchkula.
- (iii) Following the admission of the Corporate Debtor into CIRP vide order dated 12.01.2024 and the appointment of Respondent No. 1 as Interim Resolution Professional, the Applicants state that they became aware of the alleged encroachment in September 2024 and thereafter approached the Tehsildar, Panchkula, on 18.11.2024 seeking demarcation.
- (iv) A Kanungo's intimation for demarcation on 22.11.2024 followed, but the security personnel posted at the project site



declined entry to the revenue officials, a fact recorded in the Kanungo's report of the same date.

- (v) Correspondence between the Applicants' SPA holder and Respondent No. 1 ensued on 28.11.2024 and 29.11.2024, culminating in Respondent No. 1's reply declining to permit entry, citing the moratorium under Section 14 of the Code.
- (vi) The Applicants have also instituted Civil Suit No. 1000 of 2024 before the learned Civil Court, Panchkula, on 17.12.2024, seeking partition by metes and bounds, declaration of ownership, and a court-directed demarcation in respect of the very same 09/49 share. It is to be noted that the said suit remains pending, that mediation was attempted without success, and the civil court, vide order dated 20.12.2024, declined to grant any ad-interim injunction at that stage, without expressing any opinion on the merits.

REPLY OF RESPONDENTS NO. 1 AND 2

3. Respondent Nos. 1 and 2 have filed a reply opposing the Application of the Applicants; it is summarised as follows:

- (i) It is submitted that the disputed 9 Marla does not form part of Licence No. 610 dated 27.03.2006 granted to the Corporate Debtor by the Department of Town and Country Planning, and is not reflected in the title search report dated 20.09.2016, and also does not feature in the Corporate Debtor's Information Memorandum. On this basis, the Resolution Professional lays



no claim over the said parcel on behalf of the Corporate Debtor or the CIRP estate.

- (ii) The Applicants' own case, being one of an admitted 09/49 undivided share in a larger unpartitioned holding, is a matter of partition between co-owners, over which this Tribunal has no jurisdiction, such disputes properly lying before the Civil Court or Revenue Authorities. Reliance is placed on ***Embassy Property Developments (P) Ltd. v. State of Karnataka, (2020) 13 SCC 308***, for the proposition that the jurisdiction of this Tribunal under the Code cannot be extended to matters governed by other statutes and forums.
- (iii) It is also submitted that since the Applicants have already invoked the jurisdiction of the competent Civil Court in Civil Suit No. 1000/2024 on an identical cause of action, the present Application, seeking the same relief before a parallel forum, does not lie. Reliance in this regard is placed on ***Ram Chander v. Bhim Singh, 2008(3) RCR (Civil) 685***, for the proposition that demarcation of a joint holding can follow only upon its formal partition.
- (iv) On the question of the moratorium, it is submitted that Section 14(3) of the Code contemplates its own cesser upon approval of the Resolution Plan, and does not, in any event, operate as a bar to the continuation of the civil suit. It is recorded that counsel for the Successful Resolution Applicant has, on instructions, assured this Tribunal that the SRA shall remain



bound by the outcome of the pending civil proceedings, and shall contest the same on merits.

SUBMISSIONS OF RESPONDENT NOS. 3 AND 4

4. The submissions of Respondent No. 3 and 4 are summarised as follows:

- (i) Respondent Nos. 3 and 4, the suspended directors of the Corporate Debtor, have been impleaded as proforma respondents.
- (ii) They submit that no relief is claimed against them independently, and the control and management of the Corporate Debtor's assets, including the project land, presently vests in Respondent No. 1 pursuant to the order dated 12.01.2024.
- (iii) It may be noted that the right of Respondent Nos. 3 and 4 to file a substantive reply stood forfeited by operation of this Tribunal's order dated 09.12.2025, time having been granted with a clear indication that it would not be extended further; their submissions on record are accordingly confined to arguments and do not constitute a reply on merits.
- (iv) On the substantive question, Respondent Nos. 3 and 4 take a position that, while not adverse to the Applicants' underlying claim, differs from that of Respondent Nos. 1 and 2. At the time of the original Collaboration Agreement and the sale deed dated 19.01.2007, Khasra No. 18/3 was reflected in the licence and



revenue record as measuring 2 Kanal 0 Marla, and that the differential of 9 Marla has come to light only pursuant to subsequent revenue verification.

- (v) On this footing, it is submitted that the Applicants' appropriate remedy, if any, would lie in a claim for the differential value as on the date of sale, together with interest, rather than in segregation of land presently forming part of the project. Respondent Nos. 3 and 4 have not taken any position on the Applicants' prayer for action against Respondent No. 1, leaving the same to the discretion of this Tribunal.

ANALYSIS AND FINDINGS

5. We have heard learned counsel for the parties at length and have perused the material on record.
6. By perusing the pleadings of both the parties and upon hearing the Ld. counsels for both parties the following issues arise for our consideration:
 - (i) ***Whether the dispute raised in the present Application, concerning partition and demarcation of an undivided joint holding, falls within the jurisdiction of this Tribunal under Section 60(5) of the Code;***
 - (ii) ***Whether the pendency of Civil Suit No. 1000/2024 before the learned Civil Court, Panchkula on the same cause of action affects the maintainability of the present Application.***



7. On the first issue, it is not in dispute that on the Applicant's own case, the 9 Marla in question forms part of a larger, undivided holding of 2 Kanal 9 Marla in Khasra No. 18/3, in which the Applicants claim only a 09/49 share. A claim so framed is a claim to partition of joint property, the remedy that lies before the competent Civil Court and not before this Tribunal. This position finds support in ***Ram Chander v. Bhim Singh, 2008(3) RCR (Civil) 685***, where the Full Bench of the Hon'ble Punjab and Haryana High Court held that demarcation of a joint holding is properly undertaken only consequent upon its formal partition. We have also considered the observations of the Hon'ble Supreme Court in ***Embassy Property Developments (P) Ltd. v. State of Karnataka, (2020) 13 SCC 308***, cautioning against this Tribunal assuming jurisdiction over matters that fall outside the field occupied by the Code. Viewed thus, the reliefs sought by the Applicants would require this Tribunal to adjudicate questions of title, share, and partition inter se the Applicants and the erstwhile vendee, which exercise is more appropriately left to the forum already seized of the matter.
8. On the second issue, the Applicants have already instituted Civil Suit No. 1000/2024 before the learned Civil Court, Panchkula, seeking partition, declaration of title and demarcation of the same parcel of land. The suit remains pending, and no interim relief has been granted, the order dated 20.12.2024 having only declined ad-interim protection at that stage. In these circumstances, a parallel adjudication by this Tribunal on the identical subject-matter is



unwarranted, particularly when the Applicants' civil remedy remains available and the Successful Resolution Applicant has undertaken to abide by the outcome of the pending suit, thereby adequately safeguarding their interests.

9. We have also considered the Applicants' reliance on the judgment of the Hon'ble NCLAT, Principal Bench, New Delhi in ***Mrs. Durdana Aabid Ali & Ors. v. Vijay Kumar V. Iyer [Company Appeal (AT) (Insolvency) No. 27 of 2024 & I.A. No. 89 of 2024, decided on 23.04.2024]***. While the legal principle that a Section 14 moratorium cannot be used to create or expand rights over independent third-party properties is well-settled, its application depends entirely on an established and undisputed title.
10. In the present case, the question of whether the disputed 9-marla plot is an independent, distinct third-party asset or an undivided co-shared interest in a joint holding is the central triable issue in the pending civil suit. Since determining this underlying classification is a matter of civil partition and demarcation, jurisdiction over which lies strictly with the Civil Court, any preemptive classification of the property's status by this Tribunal under Section 60(5) would be premature and coram non judice.
11. Consequently, without expressing any opinion on the nature, possession or title of the disputed land, the issue is left to be determined by the competent Civil Court in Civil Suit No. 1000 of 2024. The undertaking recorded vide Order dated 21.05.2026, on behalf of the SRA through its learned Counsel, Mr. Pankaj Aggarwal,



that any order passed by the Civil Court shall be honoured by the SRA, sufficiently safeguards the Applicants' rights pending such adjudication.

CONCLUSION

12. In the result, we are satisfied that the present Application does not lie before this Tribunal in the exercise of its jurisdiction under Section 60(5) of the Code, being one for partition and demarcation of an admittedly undivided joint holding, on a subject-matter already pending adjudication before the competent Civil Court.
13. This Order is subject to any order to be passed by the Hon'ble NCLAT in pending Company Appeal (AT) (Insolvency) No. 830 of 2026 filed by SRV Investments.
14. Accordingly, **I.A.(IBC) No. 1181/2025** is ***dismissed and disposed of.***

SD/-

(SHISHIR AGARWAL)
MEMBER (TECHNICAL)

Yuvraj

SD/-

(KHETRABASI BISWAL)
MEMBER (JUDICIAL)