IN THE NATIONAL COMPANY LAW TRIBUNAL
DIVISION BENCH–I, CHENNAI

ATTENDANCE CUM ORDER SHEET OF THE HEARING
HELD ON **08.09.2026** THROUGH VIDEO CONFERENCING

CORAM: **HON'BLE SHRI. SANJIV JAIN, MEMBER (JUDICIAL)**
HON'BLE SHRI. VENKATARAMAN SUBRAMANIAM, MEMBER (TECHNICAL)

IN THE MATTER OF **:** Indian Bank
Vs
BKR Hotel And Resorts Pvt. Ltd.

MAIN PETITION NUMBER **:** CP/472/IB/2017

(IA/MA) APPLICATION NUMBERS

MA/111/2019, MA/887/2019

ORDER

MA/111/2019

Present: Shri. R. Sailesh, Ld. Counsel for the Applicant.

Vide separate order pronounced in the Open Court, application is closed as no further cause of action survives.

MA/887/2019

Present: Shri. R. Sailesh, Ld. Counsel for the Applicant.

Vide separate order pronounced in the Open Court, application is dismissed.

Sd/-
[VENKATARAMAN SUBRAMANIAM]
MEMBER (TECHNICAL)

Sd/-
[SANJIV JAIN]
MEMBER (JUDICIAL)

VS

IN THE NATIONAL COMPANY LAW TRIBUNAL, DIVISION BENCH – I, CHENNAI

MA/111/2019
IN
CP/472/IB/2017

(filed under Section 43 & 60 of the Insolvency and Bankruptcy Code, 2016)

In the matter of ***BKR Hotels & Resorts Private Limited***

S.R. Shriraam Shekher,
Liquidator of BKR Hotels and Resorts Private Limited,
11, Prayag Apartments, Gandhi Nagar First Main Road,
Adyar, Chennai – 600 020

… Applicant / Liquidator

Vs.

1. **Balakrishnaraja Dhanuskodi Raja,**
New No. 9, Old No. 6, Venkatesan Street,
T.Nagar, Chennai – 600 017

2. **R. Darshika**
D/o Mr. Ramesh Raja K.C Old No. 6,
New No. 9, Venkatesan Street,
T.Nagar, Chennai – 600 017

3. **BKR Hotels**
New No. 9, Old No. 6, Venkatesan Street,
T.Nagar, Chennai – 600 017

4. **BKR Mines and Minerals**
New No. 9, Old No. 6, Venkatesan Streeet,
T.Nagar, Chennai – 600 017

5. **BKR Exports and Imports Pvt Ltd**
New No. 9, Old No. 6, Venkatesan Street,
T.Nagar, Chennai – 600 017

6. **Bank of Baroda (Erstwhile Dena Bank)**
New No. 6, Old No. 54, South Boag Road,
Chevaller Sivaji Ganesan Road,
T.Nagar, Chennai – 600 017

7. **Reliance Capital Services**
Reliance Centre, 6th Floor, South Wing, Off,
Western Express Highway,
Santacruz (East) , Mumbai City,
Maharashtra 400 055

8. **BMW Financial Services Private Limited**,
H- 5/B-1, Mohan Coop Industrial Area,
Mathura Road,
New Delhi – 110044

… Respondents

Present:

For Applicant : *Jayanth Viswanathan, PCS*
Vijay Vigneshwar, Advocate
Sailesh, Advocate

For Respondents : *Akash Balagee, Advocate for R1*

CORAM:

SANJIV JAIN, MEMBER (JUDICIAL)
VENKATARAMAN SUBRAMANIAM, MEMBER (TECHNICAL)

Order Pronounced on 8th September, 2026

O R D E R

(Heard Through Hybrid Mode)

1. This application MA/111/2019 has been filed seeking the following reliefs.

i. Examine the preferential transactions entered into by the Corporate Debtor, which are required to be avoided under Section 43 of the Insolvency and Bankruptcy Code, 2016 and direct the Respondents 1 to 2 to pay a sum of Rs. 19.58 Lakhs, Respondent 3 to pay a sum of Rs. 227.91 Lakhs, Respondent 6 to pay a sum of Rs. 48.00 Lakhs, Respondent 7 to pay a sum of Rs. 41.87 Lakhs and Respondent 8 to pay a sum of Rs. 8.97 Lakhs to the account of the Corporate Debtor;

ii. Examine the conduct of the 1st and 2nd Respondent under Section 66 of the Code and order that they are jointly and severally liable to contribute to the assets of the Corporate Debtor to the extent of Rs. 1,028.49 Lakhs;

iii. Direct Respondents 1 and 2 to provide the information as sought for in relation to certain unexplained transactions;

2. The facts relevant for disposal of the above application are that the CIRP against the Corporate Debtor was initiated vide an order dated 14.08.2018. R. Venkatakrishnan was appointed as the RP by the CoC in the 1st meeting held on 19.09.2018. In the course of CIRP, the RP found that certain transactions were entered into by the Corporate Debtor

which were either preferential or fraudulent or wrongful. He placed the matter before the CoC in the meeting held on 28.10.2018 and sought response from Respondent No. 1 and Devahie Balakrishnan, the suspended Directors on 29.11.2018. The Respondent No. 1 vide his mail dated 05.12.2018 sought for time to submit response but his request was not acceded to considering the strict timelines provided in the CIRP. Till date Respondents have not provided any response. The transactions sought to be avoided and their value are as under:-

S. No.	Particulars	Amount in Lakhs Rs
1	Preferential Transactions as per Section 43(4)(a) of the Code - Related Parties	247.49
2	Preferential Transactions as per Section 43(4)(b) of the Code – Other than a related party	98.84
3	Fraudulent Trading Or Wrongful Trading as per Section 66 IBC, 2016	1,028.49
Total		1,374.82

3. It is stated that Respondent No. 1 and Devahie Balakrishnan made the preferential transactions with the related party as set out below:-

a. Payment to BKR Hotels, a partnership firm run by the Promoters of the Corporate Debtor

It is stated that BKR Hotels is a related party of the Corporate Debtor where Corporate Debtor holds 20% stake. Respondent No. 1 and Devahie Balakrishnan are the partners in the partnership firm BKR Hotels. A sum of Rs. 68.59 Lakhs was the receivables from BKR Hotels based on the audited balance sheet of the Corporate Debtor as on 31.03.2016. During the year 2016-2017, Corporate Debtor paid Rs. 265.0 Lakhs and received including the credits for supplies, Rs. 132.0 Lakhs from the firm. A sum of Rs. 133.0 Lakhs is the amount receivable at the beginning of the year. In the books of accounts, closing balance as on 31.03.2017 should have been Rs. 201.59 Lakhs receivable from BKR Hotels. A sum of Rs. 104.38 Lakhs was payable to BKR Hotels. During April 2017 to August 2018, Corporate Debtor paid Rs. 157.98 Lakhs and received including credits for supplies a sum of Rs. 63.07 Lakhs. Therefore, Rs. 94.91 Lakhs were paid in excess at the beginning of 2017-2018. The payments, receipts, audited balance sheet are inconsistent. The Corporate Debtor potentially diverted the amounts to the tune of Rs. 227.91 Lakhs to BKR Hotels in preference to other creditors of the Corporate Debtor.

b. Payments made to Directors

It is stated that the Directors of the Corporate Debtor namely Balakrishna Raja and Devahie were paid Rs. 8.36 Lakhs and Rs. 11.22 Lakhs respectively without any proper narration during the period from August 2016 to August 2018 which are the preferential transactions. The Corporate Debtor repaid loan to the Financial Creditors Dena Bank (Rs. 48.0 Lakhs), Reliance Capital Services (Rs. 41.87 Lakhs) and BMW Financial Services Private Limited (Rs. 8.97 Lakhs) during the period from August 2017 to August 2018. It is stated that the payments made to the related party *vis-à-vis* Financial Creditors would reflect that the related party was put in a beneficial position.

c. Payments to persons without any underlying transactions.

It is stated that the books of accounts reflect the advances paid to the below mentioned parties without proper narration / underlying services / goods.

S.No.	Name of the party	Amount in Lakhs - Rs
1.	Sriram Products	10.00
2.	Veecon Structurals	1.50
3.	Venkataraman Structurals	1.00
4.	Prabhakar M	4.70
5.	Transcar India Private Limited	1.12
6.	Venkatraman Gunasekaran	1.00
7.	Sky Cotex India Private Limited	1.06
8.	VST_Motors	5.00
	Total	**25.38**

d. Deficit in Cash Balance

It is stated that there have been multiple cash withdrawals from State Bank of India with whom the Corporate Debtor had maintained the account. These cash withdrawals are unexplained withdrawals made from 27.02.2018 amounting to Rs. 78.65 Lakhs which withdrawals are disproportionate to the business requirements. This resulted in substantial erosion of cash balances of the Corporate Debtor which was reduced from Rs. 41.32 Lakhs to Rs. 0.32 Lakhs, resulting into deficit to the extent of Rs. 41.0 Lakhs which happened during the period from 14.08.2018 i.e. date of commencement of CIRP to 21.08.2018, the date when the RP came to function. In addition, Rs. 6.0 Lakhs and Rs. 9.0 Lakhs were withdrawn from SBI and HDFC Bank in July 2017 and transferred to the suspense account.

e. Vehicles sale not accounted.

It is stated that as per the books, the Corporate Debtor had three vehicles as below.

S. No.	Nature of Vehicle	Registration No.
1.	Mercedes Benz	TN 09 BR 2525
2.	Toyota Fortuner	TN 09 BK 2525
3.	BMW	TN 09 BU 2525

These vehicles were sold but the sale proceeds were not accounted for. After physical verification, only one car bearing registration No. TN 09 BU 2525 (BMW) was produced. No record was produced in respect of sale of other two vehicles, approximate value of which would have been Rs. 30.0 Lakhs.

f. Personal Loan taken by the Directors repaid by the Company.

It is stated that there are several payments made by the Company in respect of the personal loan taken by the Directors as tabulated below.

S. No.	Particulars	Amount in Rs. Lakhs (Dr Balance)
1	Repco bank – Balakrishna Raja	71.89
2	Repco Bank –Devahie	75.98
3	Repco Bank- Rajapalayam Property	73.23
4	BKR Chairman HDFC A/c	40.74
5	BKR Chairman KVB A/c	18.45
Total		**280.29**

These transactions reflect the sole objective of dispossessing the Corporate Debtor of its assets / balances.

g. Cash receipts not booked.

It is stated that there is huge mismatch in the cash balances as appearing in the books of accounts *vis-à-vis* the amounts reflected in the audited financials of the Corporate Debtor. As on 16.07.2015, negative balance of Rs. 1.35 Lakhs was shown which on 31.03.2016 went to Rs. 448.05 Lakhs. As per the audited accounts, the cash in hand shows positive balance of Rs. 2.70 Lakhs, thus indicating that cash in flow of Rs. 450.75 Lakhs was not accounted for in the books of accounts.

h. Hotel Room Rent.

It is stated that licence for 124 Hotel Rooms is in the name of BKR Hotels & Resorts Private Limited. The revenue from the hotel rooms was credited in the books of BKR Hotels & Resorts Private Limited. However, from June 2017 to September 2017, the income pertaining to 76 rooms amounting to Rs. 53.47 Lakhs was booked in the name of BKR Hotels, the partnership firm. From April 2018, the revenue from 78 rooms was not booked in the name of the Corporate Debtor. It is stated that these transactions are the fraudulent transactions.

i. Omission of revenue from the books

It is stated that the revenue from the banquet hall / convention centre, a unit of the Corporate Debtor is recorded in WINHMS (World Class Hotel Management Software) maintained at the Corporate Debtor. The revenue for the period between April 2017 to June 2017 for an amount of Rs. 9.32 Lakhs was not booked in the name of the Corporate Debtor.

j. Possible Revenue Leakage Coutrallam

It is stated that the Company obtained loan from the Corporation Bank to purchase movable assets and construct building. The land is

registered in the name of R1 and Devahie Balakrishnan. The building was shown under fixed assets amounting to Rs. 520.64 Lakhs, however, income from the rooms and restaurants from the property was not booked in the books of the Corporate Debtor.

k. Related party accounts with no movement

It is stated that following payments were made to the related parties of the Corporate Debtor without any transaction as tabulated below.

S.No.	Name of the Ledger Account	Amount in Lakhs
1.	BKR Mines and Minerals	109.93
2.	BKR Exports and Imports P Ltd	4.01
	Total	113.94

l. Suspicious cash transactions

It is stated that the Corporate Debtor made various cash payments during March 2018 to August 2018 to the tune of Rs. 28,94,454/- as Annexure 3 which are to be restored back.

m. Diversion of Funds

It is stated that an account named "Fund Diversion" was created. An amount of Rs. 10.40 Lakhs was withdrawn from the account which is to be restored back.

4. It is stated that these transactions were entered into by the Directors of the Corporate Debtor which are squarely covered under Section 43 and Section 66 of IBC which were solely done with fraudulent intention to either give preference or defraud the creditors of the Corporate Debtor.

5. Notice of the application was given to the Respondents. A memo vide Sr. No. 3940 dated 27.08.2026 was filed stating that Respondent No. 1 passed away on 07.03.2026. His death certificate was also enclosed as Annexure M1. A memo was filed vide Sr. No. 3237 dated 04.08.2025 enclosing the death certificate of Devahie Balakrishnan (Respondent No. 2) stating that she died on 04.06.2019. IA/1416/2025 was filed to take on record the legal heir of deceased R2 Devahie Balakrishnan which was disposed of by the Tribunal on 15.05.2025 whereby R. Darshika became R2.

6. It is pertinent to mention that the Respondent No. 1 in the memo filed vide Sr. No. 3237 dated 04.08.2025 had submitted that he has no record to cross check the figures and entries set out by the Applicant. Unless he is given access to the books of the Company, tally books, Directors

reports, Independent Auditor Reports and Board Resolutions, he will not be in a position to make any statement as against the figures and entries held out by the Applicant. A prayer was made to direct the Applicant to provide the soft copies of the documents. He also prayed for substitution of his granddaughter Ms. R. Darshika.

7. Respondent No. 6 filed the reply stating that the Corporate Debtor was sanctioned a sum of Rs. 1,55,00,000/- under Dena Bank Rent Scheme. The rents payable by the Zonal Office was to be appropriated towards the term loan account under Dena Bank Rent Scheme. The Corporate Debtor assigned whole of the rent in favour of Respondent No. 6 to be appropriated towards the term loan account with an understanding that it would constitute an equitable assignment. It is stated that assignment or a transfer implies more than subrogation. There was a complete relinquishment of any rights over any assigned chattle or any amounts by the assignor in the present case and the assignee was the absolute owner of the property. It is stated that Respondent No. 6 on the demand raised by the Applicant clearly stated that no preference was given. The amount was advanced as early as in 2013 and the rents were assigned towards the discharge of the term loan. It is stated that

under the scheme, the amount has been realized in full w.e.f. 07.03.2019. The Zonal Office who has to pay the rent is ready and willing to make payments of the rent towards the account of the Corporate Debtor.

8. None appeared for Respondent No. 8 and it was set as ex-parte vide an order dated 04.04.2019. Vide the same order, Respondent No. 1 to 5 were also set as ex-parte. Despite time granted to R7, it did not file any reply. On 11.07.2019, it absented and was set as ex-parte.

9. We have heard the Applicant who is now being represented by the Liquidator Dr. S.R. Shriraam Sheker through his Counsel Shri. Jayanth Viswanathan. The Liquidator has also filed the written synopsis. We have also heard the Counsel Shri. Akashbalagee who represented Respondent No. 1 (now deceased). He has submitted that Ms. R. Darshika, granddaughter of R1 and Devahie Balakrishnan had severed the relations from the deceased Respondent No. 1 and Devahie Balakrishnan during their lifetime. She has been living separately with her husband and has no concern with the estate of the deceased R1 and Devahie Balakrishnan.

10. Ld. Counsel for the Applicant reiterated what has been stated in the application. He placed reliance on the case of *GVR Consulting Services Pvt Ltd Vs. Pooja Bahry in CA(AT)(Ins) No. 405 of 2022* to submit that composite application under Section 43 and Section 66 of IBC can be filed. Ld. Counsel submits that directions be issued to the Respondents to repay the monies into the account of the Corporate Debtor.

11. We have considered the submission.

12. A perusal of the application and the records reveals that Respondent No. 1 and 2 were the Promoter Directors of the Corporate Debtor, who have since been deceased. Respondent No. 3 BKR Hotels was a partnership firm in which Respondent No. 1 and Devahie Balakrishnan were the partners with the Corporate Debtor which had partnership to the extent of 20%. Respondent No. 4 BKR Mines and Minerals and Respondent No. 5 BKR Exports and Imports Pvt Ltd, according to the Applicant were the related parties of the Corporate Debtor but the Applicant has not disclosed their relationship with the Corporate Debtor or its Directors. Respondent No. 6 in its reply has stated that the Corporate Debtor was sanctioned a sum of Rs. 1,55,00,000/- under

Dena Bank Rent Scheme. The Corporate Debtor assigned the rents in favour of Respondent No. 6 as an equitable assignment. The rent was appropriated towards the term loan account under the scheme and has been fully realized upto 07.03.2019. It is stated that Zonal Office, which has to pay the rent is ready and willing to make payments of the rent towards the account of the Corporate Debtor. Respondent No. 7 and 8 are the Financial Creditors of the Corporate Debtor. Except the averment that the Corporate Debtor has repaid loan to them to the extent of Rs. 41.87 Lakh and Rs. 8.97 Lakh respectively, the Applicant / RP / Liquidator has not uttered a single word how these payments are the preferential or the fraudulent transactions and how these transactions have put the related parties in a beneficial position or why these transactions would have been avoided.

13. The application shows that the RP had forwarded his opinion in relation to the aforesaid transactions to the Respondent No. 1 and Devahie Balakrishnan for seeking their response on 29.11.2018. Though Respondent No. 1 via mail dated 05.12.2018 had sought for time to submit his response but he did not grant any time as evident from his reply dated 06.12.2018 to the mail sent by Respondent No. 1.

We find that no reasonable opportunity of hearing was afforded to the Respondents to respond to the aforesaid opinion before filing the application. Further, Respondent No. 1 had filed a memo vide Sr. No. 3237 dated 04.08.2025 seeking for records stating that he has no record to cross check the figures and entries set out by the Applicant. This Tribunal vide an order dated 20.02.2026 considering the submission of the Respondent No. 1 had given an opportunity to the Respondents to explain the transactions to the Applicant. The Applicant was also directed to make available the records lying with him to the Promoter Director.

14. During the hearing on 10.04.2026, it was submitted that both the Directors of the Corporate Debtor have expired. This Tribunal then directed the Liquidator to place the facts before the SCC to take a decision as to how to proceed in the application. On 02.06.2026, it was submitted by the Liquidator that SCC meeting was held on 29.06.2026 but no final decision was taken. On 24.07.2026, it was informed by the Applicant / Liquidator that SCC has decided to proceed against the legal heirs of deceased Respondent No. 1. It has been pleaded on behalf of the sole surviving legal heir i.e. the granddaughter of the

deceased Respondent No. 1 and Devahie Balakrishnan that she has not inherited the estate of the deceased Respondent No. 1 and Devahie Balakrishnan and had severed the relations during the lifetime of the Promoter Directors, so she is not liable for any contribution in relation to the above transactions pleaded in the application. The Applicant has not placed any record or document as to succession or inheritance of the estate of the deceased Respondent No. 1 and Devahie Balakrishnan by Ms. R. Darshika.

15. In the absence of any record to this effect, this Tribunal cannot proceed against the sole surviving legal heir Ms. R. Darshika. The Applicant has also not defined the role of Respondent No. 4 and 5, as to in what way they are connected with the alleged transactions. He has not even produced the supporting documents to substantiate the alleged transactions though initial burden of proving the transactions was on the Applicant.

16. For the foregoing discussions, we close the application MA/111/2019 as no cause of action survives against the surviving Respondent Ms. R. Darshika. The application in respect of other Respondents is

dismissed as the Applicant has failed to substantiate the allegations against them.

Sd/-

VENKATARAMAN SUBRAMANIAM
MEMBER (TECHNICAL)

Sd/-

SANJIV JAIN
MEMBER (JUDICIAL)