

S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G S

Writ Petition(s)(Civil) No(s). 438/2024

RUHI GULATI

Petitioner(s)

VERSUS

INSOLVENCY AND BANKRUPTCY BOARD OF INDIA & ORS. Respondent(s)

(FOR ADMISSION and IA No.143490/2024-STAY APPLICATION)

Date : 19-07-2024 This petition was called on for hearing today.

CORAM : HON'BLE MR. JUSTICE PANKAJ MITHAL
HON'BLE MR. JUSTICE R. MAHADEVAN

For Petitioner(s) Mr. Dhananjai Jain, AOR
Ms. Omita Unnarkar, Adv.
Mr. Bhoop Singh, Adv.
Mrs. Ruchika Agarwal, Adv.

For Respondent(s) Mrs. Vanita Bhargava, Adv.
Mr. Ajay Bhargava, Adv.
Mrs. Wamika Trehan, Adv.
Ms. Raddhika Khanna Tondan, Adv.
Mr. Siddhant Kumar, Adv.
M/S. Khaitan & Co., AOR

Mr. Suvidutt M.S., Adv.
Ms. Nikita Garg, Adv.
Mr. Milind Garg, Adv.
Mr. Yaksh Garg, Adv.

UPON hearing the counsel the Court made the following
O R D E R

1. The petitioner is one of the home-buyers in the SARE project in Gurugram. The RERA had ordered for the refund of the earnest money deposited by the petitioner with 10.75% interest. In the meantime, the company entered Corporate Insolvency Resolution Professional (CIRP). According to the Form CA submitted by the

petitioner, the Resolution Professional accepted the claim of the petitioner to the tune of ₹ 1,16,79,242/- (₹ 63,93,523/- towards Principal + ₹ 52,85,720/- towards Interest) but subsequently on asking of the Resolution Professional petitioner submitted her claim in Form F. The petitioner accordingly was reclassified as a financial creditor and the resolution professional permitted payment of 25% of the aforesaid amount instead of whole of it. The scheme was approved by the National Company Law Tribunal (NCLT) on 24.04.2023.

2. It is alleged that the petitioner filed a belated appeal before the National Company Law Appellate Tribunal (NCLAT) which was dismissed on the point of limitation which order remained undisturbed even before the Supreme Court.

3. Now, the petitioner has invoked the writ jurisdiction under 32 of the Constitution of India so as to allow payment of the entire amount as has been accepted initially by the Resolution Professional.

4. The submission of the learned counsel appearing for the petitioner is that out of the same CIRP, Civil Appeal No. 7943 of 2023 is pending consideration before this Court and notwithstanding the prayer of the maintainability of this writ petition, it may be tagged with the said Civil Appeal.

5. The prayer for tagging has been opposed and it has been submitted that since the petitioner has already lost up to the Supreme Court in the previous round no such indulgence ought to be granted to her.

6. Be that as it may be, keeping the issue of the maintainability

of the writ petition open, we direct that this writ petition be tagged with above referred Civil Appeal No. 7943 of 2023.

(KAPIL TANDON)
COURT MASTER (SH)

(NIDHI WASON)
COURT MASTER (NSH)