

ASHMEET SINGH BHATIA VS RAKESH VERMA

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Case Summary:

Details of the Parties:

1. Appellant:

- **Name:** Ashmeet Singh Bhatia
- **Address:** H. No. 12A, Savitri Sahani Enclave, New Hyderabad, Lucknow, Uttar Pradesh-226007
- The Appellant is a Homebuyer seeking to replace the Authorized Representative (AR) in the insolvency proceedings of the Corporate Debtor.

2. Respondent No. 1:

- **Name:** Rakesh Verma
- **Position:** Authorized Representative of Homebuyers
- **Address:** Flat No. 1099, Vikas Kunj, Vikas Puri, New Delhi – 110018
- Rakesh Verma is the AR representing the Homebuyers in the insolvency proceedings.

3. Respondent No. 2:

- **Name:** M/s. Granite Gate Properties Pvt. Ltd. (Corporate Debtor)
- **Incorporation Number:** CIN: U45200DL2007PTC202952
- **Resolution Professional:** The RP is appointed to manage the insolvency proceedings.
- **Address:** C-23, Greater Kailash Enclave, Part – I, New Delhi – 110048

Facts of the Case:

- The Corporate Debtor, **Granite Gate Properties Pvt. Ltd.**,

is undergoing insolvency proceedings under the Insolvency and Bankruptcy Code (IBC).

- **Ashmeet Singh Bhatia**, a homebuyer, filed an application (I.A. No. 1158/2024) seeking the replacement of the **Authorized Representative (AR)**, **Rakesh Verma**, who represents the financial creditors in the class of homebuyers.
- The **Resolution Plan** for the Corporate Debtor was approved by the Committee of Creditors (CoC) in July 2020 with a vote share of 80.13%.
- The Appellant sought the removal of the AR, claiming that the AR had not acted in the best interests of the homebuyers, and failed to perform their duties adequately.
- The **Adjudicating Authority (NCLT)** rejected the Appellant's application, determining that the AR had followed the majority voting instructions and had performed his duties in line with statutory requirements.
- The Adjudicating Authority had replaced the **Resolution Professional (RP)** due to issues related to his conduct, but did not find the same grounds applicable to the AR.

Issues Involved:

1. Whether the **Adjudicating Authority** has jurisdiction to remove or replace the **Authorized Representative (AR)** of financial creditors in the insolvency process under the IBC.
2. Whether the **Appellant** (homebuyer) can seek the replacement of the AR after the approval of the **Resolution Plan** in 2020, particularly when the request for replacement was filed more than 3 years later.
3. Whether the **Adjudicating Authority** erred in relying solely on **Regulation 16A(3A)** for replacing the AR and not exercising inherent powers to replace the AR.

Judgement:

- The **National Company Law Appellate Tribunal (NCLAT)** reviewed the decision of the **Adjudicating Authority** which had rejected the **Appellant's application** for replacing the AR.
- The Tribunal confirmed that the **Authorized Representative (AR)** must act according to the instructions received from the majority of creditors in the class, as specified by **Section 25A of the IBC and Regulation 16A**.
- The Tribunal observed that the **Appellant's application** for the replacement of the AR was filed after a significant delay of over three years since the Resolution Plan was approved.
- The **Adjudicating Authority** had replaced the RP due to specific issues in the conduct of the RP, but did not find similar reasons to replace the AR.
- The Tribunal upheld the decision of the **Adjudicating Authority**, emphasizing that the **Regulation 16A(3A)** introduced in 2023 provided a proper mechanism for replacing an AR, and this mechanism was not followed by the Appellant.

Conclusion:

- The **Appeal** filed by the Appellant, **Ashmeet Singh Bhatia**, was **dismissed** by the **National Company Law Appellate Tribunal (NCLAT)**.
- The **Tribunal** upheld the **Adjudicating Authority's decision** to reject the Appellant's application for the removal and replacement of the **Authorized Representative (AR)**, noting that the request for replacement was filed too late and that no sufficient grounds were presented to exercise inherent jurisdiction for removing the AR.