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.