

**NATIONAL COMPANY LAW APPELLATE TRIBUNAL, NEW DELHI**

**Company Appeal (AT) (Insolvency) No. 585 of 2020**

**IN THE MATTER OF:**

**Dr. Vandana Parvez  
Tamil Nadu**

**...Appellant**

**Versus**

**IVRCL Ltd. (Corporate Debtor& Ors.)  
Represented by Sutanu Sinha  
(Resolution Professional for IVRCL)**

**...Respondents**

**Present**

**For Appellant: Mr. Sudhanshu Batra, Sr. Advocate with  
Ms. Dr. Vandana and Mr. Saroj Anand Jha, Advocates**

**For Respondent: Mr. Nirav Shah, Advocate  
Mr. Sutanu Sinha. Advocate for R-1.**

**ORDER**  
**(Virtual Mode)**

**04.08.2020** Heard Mr. Sudhanshu Batra, Sr. Advocate for the Appellant. The Learned Sr. Counsel for the Appellant states that the Corporate Debtor IVRCL Ltd. and associate entities incorporated M/s IVR Hotels and Resorts Ltd. (the SPV Company). Part of the shares in SPV were held by Kotak Group Companies. Appellant entered into contract to buy plot from SPV. The Learned Sr. Counsel states that there was fraud in the conduct of that SPV and thus the present proceedings before the Adjudicating Authority, National Company Law Tribunal, Hyderabad Bench, Hyderabad. The Appellant had filed three Interlocutory Applications but the same have been wrongly dismissed. It is stated that there were various illegal acts committed by Corporate Debtor in collective connivance to strip the SPV Company.

The three I.As had prayers made before the Ld. Adjudicating Authority as reproduced by the Adjudicating Authority in Paras 2 to 4 of Impugned Order which we need not reproduce. The Ld. Adjudicating Authority after hearing the parties observed as follows:

*“9. The following points are matter of facts which are noted by this Adjudicating Authority in the instant Applications.*

- a. The properties against which reliefs have been sought for do not belong to the Corporate Debtor i.e., IVRCL limited, but belong to one of its subsidiaries namely ‘IVR Hotels and Resorts Limited’.*
- b. The issue of investigation into the affairs of the Corporate Debtor is being raised by a party completely stranger to such transactions.*
- c. The mortgage and/or charges that have been created on the lands in question have been created by the owners of the lands in favour of the Central Bank of India and Kotak Investment Advisors Limited, which is very well documented as per Law.*

*10. From the above, this Adjudicating Authority observes that the Applicants herein are fighting for their cause, before an appropriate forum and the subject matter that is sought to be dealt with doesn’t fall under the purview of this Adjudicating Authority.*

*11. It is further pertinent to note that an order of Liquidation under Section 33 of IBC, 2016, has been passed by this Adjudicating Authority whereby the prayer of the Applicants regarding not to include the subject lands in the Resolutions Plan of the Corporate Debtor becomes infructuous.*

12. *With regard to the Prayer of Appointment of forensic Auditor to investigate into the transactions relating to loan of Rs. 169 Crores, allegedly made in favour of the Corporate Debtor by Indravathi Investments Private Limited, this Adjudicating Authority observes that the Applicants herein do not have any locus standi to maintain such a prayer as they are not privy to such transactions and IB Code does not provide for any third party to file Application challenging any fraudulent transactions.*

13. *It is also observed that the Applicants herein already approached various forums such as IBBI, SFIO, police Authorities, TNRERA etc, with similar prayers for investigation into the Affairs of the Corporate Debtor.*

14. *In view of the above, the Instant Applications are liable to be dismissed as not maintainable.*

15. *However, it is made clear that the present Applications are disposed, for want of jurisdiction to adjudicate upon the allegations which are found to be not falling under the purview of IB Code and for want of Locus Standi by the Applicants to level such allegations and same are disposed of without passing any comments on the merits and/or demerits of the allegations levelled against the Respondents in these Applications. If the Applicant either on advice or desire wishes, they can initiate appropriate criminal/civil proceedings, if any, before appropriate authority/forum to seek appropriate reliefs as envisaged under Law.*

16. *Accordingly IA No. 523, 524 and 672/2018 stand disposed of.”*

The reasons recorded by Adjudicating Authority are correct. It is clear that at present, the Corporate Debtor is in Liquidation and the Liquidation Proceedings which are time bound proceedings are pending. In Liquidation Proceedings of the Corporate Debtor investigations with regard to the

transactions relating to some other entity referred as SPV cannot be said to be relevant.

The Adjudicating Authority has already observed in Para 15 that the Applicant/Appellant can initiate appropriate criminal/civil proceedings, if any, before the Appropriate Authority and Forum. If the Appellant has any grievances against the acts committed by the Corporate Debtor with regard to the SPV Company, the appropriate legal recourse would always be open. In Liquidation proceedings of the Corporate Debtor it is not necessary to decide the I.As as filed by the Appellant. Proceedings under Insolvency and Bankruptcy Code are basically summary in nature and it is not possible to decide what the Learned Sr. Counsel is claiming to be fraud. Here it is not relevant. The proceedings of IBC cannot be so conducted, so as to make IBC unworkable. As such we do not find any reason to entertain the present Appeal. The Appeal is dismissed at the stage of Admission.

**[Justice A.I.S. Cheema]**  
**Member (Judicial)**

**[Justice Anant Bijay Singh]**  
**Member (Judicial)**

**[Ms. Shreesha Merla]**  
**Member (Technical)**

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