

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

**Company Appeal (AT) (Insolvency) No. 72 of 2020**

**IN THE MATTER OF:**

**Mrs. Pratibha Devchand Shah**

**...Appellant**

**Versus**

**Good Value Financial Services Pvt. Ltd.**

**...Respondent**

**Present:**

**For Appellant :**

**Mr. Aman Gandhi, Mr. Dharav Shah and  
Mr. Abhishek Sharma, Advocates**

**O R D E R**

**21.01.2020** An agreement is stated to have been reached between Mr. Devchand Mulji Shah (since deceased - the allottee) and 'Good Value Financial Services Private Limited' (Corporate Debtor). Mr. Devchand Mulji Shah subsequently died on 28<sup>th</sup> November, 2015. The Appellant, Mrs. Pratibha Devchand Shah, who is the only legal heir (widow), in absence of children born to the couple and no other claimant being there, seeks to be treated as an 'allottee'.

Mrs. Pratibha Devchand Shah filed an application under Section 7 of the 'I&B Code' claiming herself to be an allottee for initiation of the 'Corporate Insolvency Resolution Process' against 'Good Value Financial Services Private Limited (Corporate Debtor). The Adjudicating Authority (National Company Law Tribunal), Mumbai Bench rejected the same by the impugned order dated 26<sup>th</sup> November, 2019 on the ground that the Appellant is not the allottee. However, it noticed that Late Mr. Devchand Mulji Shah has paid a part consideration of

Rupees Ten Crores of a total consideration of Rupees 20,62,50,000/- for flats total admeasuring 33,000 sq. ft. saleable area by the Corporate Debtor inclusive of car parking spaces in stilt/podium in the residential building by the name of 'Satra Hills' situated at Amrut Nagar, Ghatkopar (West), Mumbai.

In terms of Section 5(8)(f) – Explanation (ii) the expressions, "allottee" and "real estate project" shall have the meaning respectively assigned under clause (d) and (z n) of Section 2 of the Real Estate (Regulation and Development) Act, 2016 ('**RERA**', for short). The definition in Section 2(d) of RERA, reads as follows:

*"(d) "allottee" in relation to a real estate project, means the person to whom a plot, apartment or building, as the case may be, has been allotted, sold (whether as freehold or leasehold) or otherwise transferred by the promoter, and includes the person who subsequently acquires the said allotment through sale, transfer or otherwise but does not include a person to whom such plot, apartment or building, as the case may be, is given on rent;"*

It appears that the husband of the Appellant was allottee in relation to the real estate project of Respondent (Corporate Debtor). Therefore, it is to be determined as to whether the Appellant (Widow) can come within the purview of "otherwise" for the purpose of defining her as an 'allottee' to come within the meaning of "allottee" pursuant to the word "otherwise" as defined in Section 2(d) of the RERA.

The Appellant is allowed to file an affidavit to suggest that Appellant has been shown as 'nominee' or provided with the 'Succession Certificate' for the purpose of Bank account of the husband or any other evidence within a week.

Let notice be issued on the Respondent by Speed Post. Requisites along with process fee be filed by 22<sup>nd</sup> January, 2020. If the Appellant provides the *e-mail* address of respondents, let notice be also issued through *e-mail*.

Post the case 'for Orders' on **7<sup>th</sup> February, 2020**.

[Justice S.J. Mukhopadhaya]  
Chairperson

[ Justice Bansi Lal Bhat ]  
Member (Judicial)

[ Justice Anant Bijay Singh ]  
Member (Judicial)

/ns/sk/