

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

**Company Appeal (AT) (Insolvency) No. 659 of 2020**

**IN THE MATTER OF:**

**Manish Kumar Gupta**

**...Appellant**

**Versus**

**New Okhla Industrial Development  
Authority & Ors.**

**...Respondents**

**Present:**

**For Appellant : Mr. Gurpreet Singh and Mr. Nitesh Jain,  
Advocates**

**For Respondents : Mr. Rachit Mittal, Advocate for NOIDA**

**WITH**

**Company Appeal (AT) (Insolvency) No. 603 of 2020**

**IN THE MATTER OF:**

**Suman Kukrety & Ors.**

**...Appellants**

**Versus**

**Manish Kumar Gupta, RP of  
Three C Project Pvt. Ltd. & Ors.**

**...Respondents**

**Present:**

**For Appellant : Ms. Deepti Nar and Mr. Ashish Chaudhary,  
Advocates**

**For Respondents : Mr. Nitesh Jain, Advocate for R-1  
Mr. Rachit Mittal, Advocate for R-2**

**ORDER**

**(Through Virtual Mode)**

**28.08.2020** Order dated 5<sup>th</sup> February, 2020 passed in CA-207(PB)/2020 and CA-187(PB)/2020 in CP (IB)-1718 (PB)/2018 pending adjudication before the Adjudicating Authority (National Company Law Tribunal), New Delhi, Principal Bench has been assailed in both the appeals, 'Company Appeal (AT) (Insolvency) No. 603/2020' preferred by 100 allottees and 'Company Appeal (AT) (Insolvency) No. 659/2020' preferred by the 'Resolution Professional' of the 'Corporate Debtor' - 'Three C Projects Pvt. Ltd.' By virtue of the impugned order, the Adjudicating Authority on consideration of the above referred applications

filed by the 'Resolution Professional' dismissed CA-207(PB)/2020 holding that in view of the direction given by the Hon'ble Allahabad High Court NOIDA Authority is not to resolve or settle the dispute with the land owners who have already been declared as owners of the property and no direction is warranted on this score. The Adjudicating Authority further observed that question of handing over possession of land standing in the name of the farmers does not arise. Insofar as the relief in the nature of damages to the tune of Rs.500 Crores was concerned, the Adjudicating Authority declined to go into the question as it had no jurisdiction to ascertain damages.

2. Insofar as CA-187(PB)/2020 is concerned, the Adjudicating Authority has only directed the suspended Directors to co-operate with the 'Resolution Professional' by supplying documents as well as to provide every kind of assistance required from the suspended Directors and report compliance. The matter had been listed for further consideration on 27<sup>th</sup> February, 2020.

3. After hearing the learned counsel for the Appellants, in both the appeals, as regards their exact grievance it emerges that land admeasuring 69998.73 square meters bearing No. GH-01/A came to be leased out by NOIDA Authority to the Corporate Debtor for development of residential project. This was followed by execution of the 'Conveyance Deed' dated 1<sup>st</sup> September, 2010. The plan was approved by NOIDA Authority for development of the residential project styled as "Lotus Zing" in the year 2010-11. The Corporate Debtor launched the project for construction of 2454 flats of different categories and sizes. While the project was under execution, CWP No. 73850 of 2010 came to be filed before the Hon'ble High Court of Allahabad wherein writ petitioners claimed to be the owners of Khasra No. 87 admeasuring 0.847 hetc. situated in village Chhaprauli Bangar,

Pargana & Tehsil Dadri, District Gautam Budh Nagar. The Hon'ble High Court held that the writ petitioners were owners of Khasra No. 87 admeasuring 0.847 hect. out of which NOIDA Authority had acquired only 0.4873 het. It further emerges that the Corporate Debtor found itself in quandry as the remaining 0.3597 hect. not acquired by the NOIDA Authority, also stood allotted to the Corporate Debtor in 2010. Since such remaining land is directed by the Hon'ble High Court of Allahabad to be handed over to the framers, Corporate Debtor no more can claim to be a lessee of such land. Therefore, NOIDA Authority holding no title or interest in such remaining land which was not acquired by it, would not be in a position to resolve and settle the dispute with the land owners. In the backdrop of this factual position, application of 'Resolution Professional' viz. CA-207(PB)/2020 seeking relief against NOIDA Authority to settle the dispute with the land owners of Khasra No. 87 admeasuring 0.847 hect. and hand over the entire land to the Corporate Debtor for execution of the residential project in question would not be maintainable. Admittedly, issue with regard to ownership of land in question has been settled by the Hon'ble High Court of Allahabad and NOIDA Authority has been held to have acquired only 0.4873 hect. out of 0.847 hect of land. In view of this judicial verdict, the land owners/farmers are entitled to obtain possession of the remaining 0.3597 hect. out of 0.847 hect. as NOIDA Authority was found to have acquired only 0.4873 hect. Relief claimed in the petition is in conflict with the judicial finding order of the Hon'ble High Court of Allahabad and the same has been rightly dismissed.

4. Before parting with this order, we deem it appropriate to observe that in view of the judicial verdict given by Allahabad High Court, the NOIDA Authority would have done better by doing a bit of introspection and take appropriate steps

to mitigate the hardship of the allottees of the residential project in question who claimed to have been promised possession of flats within 33 months i.e. by 2013. If there was any flaw in the land acquisition proceedings, steps should have been taken to rectify the same. With the judgment of the Hon'ble High Court of Allahabad staring in the face of Respondent No. 2, it cannot maintain that it had lawfully leased out land forming portion of Khasra No. 87 to the Corporate Debtor for residential project which had not been acquired by it. If it were a matter of demarcation of the subject of lease, which is sought to be projected as the area covered under land acquisition proceedings, it ought to have approached the competent authority for conducting of demarcation of land. Be that as it may, the remedy sought through the application filed by the Resolution Professional which came to be disposed of in terms of the impugned order is not the appropriate remedy and the impugned order disposing of the same in the manner indicated cannot be found fault with.

We find no merit in these appeals. The appeals are accordingly dismissed.

**[ Justice Bansi Lal Bhat ]**  
**Acting Chairperson**

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

**[ V.P. Singh ]**  
**Member (Technical)**

/ns/gc/