

NATIONAL COMPANY LAW APPELLATE TRIBUNAL, NEW DELHI
Company Appeal (AT)(Insolvency) No. 375 of 2018

IN THE MATTER OF:

Jaginder Singh Lather

...Appellant

Vs

AU Small Finance Bank Ltd.

....Respondent

Present:

For Appellant: Mr. Sumesh Dhawan, Ms. Tannya Baranwal and Ms. Geethika Sharma, Advocates.

For Respondent: Mr. H.L. Tiku, Senior Advocate with Mr. Mrityunjay Kumar and Ms. Yashmeet Kaur, Advocates

ORDER

12.09.2018: The present appeal has been preferred by the Appellant, a shareholder of M/s Prabhu Shanti Real Estate Private Limited ('Corporate Debtor'), against the order dated 13th June, 2018 passed by the Adjudicating Authority (National Company Law Tribunal), Principal Bench, New Delhi. By the impugned order the application under Section 7 of the Insolvency & Bankruptcy Code, 2016 (henceforth referred to as 'I&B Code') by the Respondent- 'AU Small Finance Bank Limited' has been admitted, order of moratorium has been passed and Resolution Professional has been appointed.

The Appellant took to the plea that the application under Section 7 of I&B Code was filed by the Respondent ('Financial Creditor') on the basis of fabricated document where the name of the 'Corporate Debtor' has been shown as 'principal borrower'. The Appellant had given the property on mortgage to the

‘Financial Creditor’. However, it is accepted that the plea taken by the Appellant was not raised before the Adjudicating Authority.

In the present appeal this Appellate Tribunal cannot decide issue such as whether the document produced by a party is forged and fabricated or not, though it is always open to aggrieved person to file an application under Section 65 of the I & B Code with such allegation.

Learned Counsel for the Appellant submits that the ‘Corporate Debtor’ being the mortgager agreed to settle the matter with the ‘Financial Creditor’ and settlement has already been reached on 24th July, 2018.

Though we find that the parties have settled the claim but in absence of any power vested with this Appellate Tribunal and in absence of any infirmity or illegality in the impugned order, we cannot set aside the order initiating of Corporate Insolvency Resolution Process against the ‘Corporate Debtor’. For the said reason, while we are not inclined to grant relief on the basis of settlement, allow the Appellant or any other party to move before an appropriate forum for appropriate relief.

Appeal stands disposed of with the aforesaid observation.

[Justice S.J. Mukhopadhaya]
Chairperson

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

Akc/Gc