

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

**Company Appeal (AT) (Insolvency)No.1053 of 2019**

**IN THE MATTER OF:**

**E.Shanmugam**

**.....Appellant**

**Vs.**

**Bank of India & Ors.**

**.....Respondents**

**Present :**

**For Appellant:**

**Ms. Ranjana Roy, Ms. Vasudha Sen, Ms. Ananya,  
Advocates**

**O R D E R**

**16.10.2019** - Two 'Financial Creditors' namely the 'Bank of India' and the 'Indian Overseas Bank' filed application for declaration that the Appellant (Respondent No. 2 therein) and another 'M/s. Srinidhi Finance Pvt. Ltd.' (Respondent No. 3 therein) are not 'Financial Creditors'.

The Adjudicating Authority ('National Company Law Tribunal')/Division Bench, Chennai by impugned order dated 11<sup>th</sup> July, 2019 held that the Appellant and the other person are rightly held to be the 'Financial Creditors'.

However, taking into consideration that the Appellant having continued as Managing Director until before new management came in place of old management there being a conflict of interest coming in between, the 'Resolution Professional' was directed not to include him as the member of the 'Committee of Creditors'.

.....contd.

The grievance of the Appellant is against the orders of the Adjudicating Authority wherein it is held that the Appellant is not to be included as a member of the 'Committee of Creditors'. However, it is not in dispute that the Appellant was the ex-Managing Director till new Management came in there being a possibility of conflict of interest, the Appellant being an erstwhile Managing Director he was rightly excluded as member of the 'Committee of Creditors'. In the absence of any merit, the appeal is dismissed. No costs.

[Justice S. J. Mukhopadhaya]  
Chairperson

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

[Kanthi Narahari]  
Member (Technical)

ss/sk

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