

ATTENDANCE - CUM-ORDER SHEET OF THE HEARING OF ALLAHABAD BENCH OF THE NATIONAL COMPANY LAW TRIBUNAL ON 14.07.2021 AT 10:30 AM THROUGH VIDEO CONFERENCING.

NAME OF THE COMPANY : ARUN KUMAR GUPTA V/S ANUJ KUMAR TIWARI (RP OF SPARKSPELL HOMES PVT LTD)

SECTION : 60(5) R/w RULE 15 OF NCLT RULES

PRESENT : HON'BLE MR. JUSTICE (RETD.) RAJESH DAYAL KHARE, MEMBER (J)

COUNSEL FOR APPLICANT/ RP : AMITABH AGARWAL

COUNSEL FOR RESPONDENT :

The matter was taken through Video Conferencing.

Heard Sh. Amitabh Agarwal, Ld. Counsel for the Applicant who has filed the present IA No. 142/2021 in CP No.(IB)76/ALD/2019 u/s 60(5) R/w Rule 15 of NCLT Rules praying for a direction to the Resolution Professional to consider the claim of the Applicant on merits and to participate in CIRP by including the name of Applicant in the list of Committee of Creditors of the Corporate Debtor Company.

It is further contended on behalf of the Applicant that in view of Regulation 6 of Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) Regulation, 2016, the Public Announcement was made in the Newspapers, which was widely circulated in the Registered office of the Corporate Debtor Company, pursuant to the order of this Tribunal dated 28.08.2020.

It is contended that the Applicant gathered information that the publication was done in the name of "Sparkspell Homes Private Limited" and the Applicant has dealt with "Proplarity Homes Pvt. Ltd" and therefore it is contended that the Applicant being unaware of the Insolvency proceedings as well as the public announcement, could not submit his claim before the Interim Resolution Professional or Resolution Professional.

It is further contended that the Applicant submitted his claim in the requisite Form-F as contemplated under Regulation 9A of Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) Regulation, 2016 through email as well as by registered post. It is further contended that the Applicant <sup>was</sup> informed that as the time for submitting of claim has already expired therefore his claim cannot be considered unless requisite <sup>permission</sup> is granted by this Tribunal. It is further contended that in the similar circumstances some orders have been passed by this Tribunal which has been <sup>dated</sup> given in para "t" of the present Application and therefore, the present Application has been filed.



After hearing the Ld. Counsel for the Applicant, this Tribunal feels it appropriate to direct the Resolution Professional to consider the claim of the Applicant as per law.

In view of the above, the Application allowed and accordingly disposed of.

No order as to cost.

**Dated : 14.07.2021**

  
**JUSTICE RAJESH DAYAL KHARE**  
**(MEMBER JUDICIAL)**

*Typed by :*  
*Shubham Kr. Singh*  
*(PS)*