

**BEFORE THE NATIONAL COMPANY TRIBUNAL, MUMBAI BENCH,
MUMBAI**

T.C.P. NO.348/I&BCP/NCLT/MB/MAH/2017

Application by Financial Creditor(s) to initiate Corporate Insolvency Resolution Process under the Code.

**DIWAN HOUSING FINANCE CORPORATION
LIMITED.**

... **PETITIONER.**

VERSUS

**M/s. K. MERCHANT CONSTRUCTION PRIVATE
LIMITED.**

... **RESPONDENT.**

CORAM:

SHRI M. K. SHRAWAT
MEMBER (JUDICIAL)

SHRI BHASKARA PANTULA MOHAN
MEMBER (JUDICIAL)

PRESENT ON BEHALF OF THE PARTIES:

None present.

Per : **SHRI M. K. SHRAWAT**, MEMBER (JUDICIAL)

ORDER

Heard on : 08.08.2017

Pronounced on: 10.08.2017

1. None present.
2. The matter is transferred from the Hon'ble High Court of Bombay pertaining to the provisions of Section 433(e) of the Companies Act, 1956. On transfer of such Petitions a list of the Transferred Cases was prepared and duly publicized to inform the parties concerned.
3. The matter appeared on 12th April 2017, when Learned Shivangi Bajoria stated to be legal Representative appeared for the Petitioner. Notice was also issued on 18.05.2017 fixing the next date of hearing on 16.06.2017. Thereafter the matter was listed on 16.06.2017. On this day the Learned Counsel for the Respondent appeared but none appeared for the Petitioner and matter was adjourned to

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8th August, 2017 i.e. today. Again today the Learned Counsel for the Petitioner is absent and Learned Advocate Mr. Dhananjay Ramanaware the appeared for the Respondent. Today also none appeared for the Petitioner. The claim amount is Rs. 1,19,67,095/-. Form No. 5 is filed on 17th July, 2017 but throughout remained unrepresented.

5. The Procedure of Intimation is three fold i.e.
 - (i) the **first** step is that the every day Cause List is always been uploaded on the NCLT Site for Public Information;
 - (ii) the **second** step is that the directions given on hearing is also displayed daily in the Official Site⁷ about the decision taken in the Court; and
 - (iii) the **third** step is that the status of the Cause List is also displayed on the official site mentioning the next date of hearing.
6. No one is present from the side of the Petitioner although number of opportunities were given. As per the procedure the proceedings abated.
7. As a consequence the Petition is liable to be rejected, however, worth to reproduce a paragraph from the latest notification dated 29.06.2017 (F. No. 1/0/2015-CL-V) GSR 732(E) as under :-

"Provided further that any party or parties to the petitions shall, after the 15th day of July, 2017, be eligible to file fresh applications under sections 7 or 8 or 9 of the Code, as the case may be, in accordance with the provisions of the Code."
8. Hence for want of prosecution, the matter is dismissed. Consigned to Records.

Sd/-

Bhaskara Pantula Mohan
Member (Judicial)
Dated: 10.08.2017

Sd/-

M.K. Shrawat
Member (Judicial)