

IN THE NATIONAL COMPANY LAW TRIBUNAL  
BENGALURU BENCH

I.A.No.21/2018  
in

C.P. (IB)NO.90/BB/2017

Under Section 19(2) and 19(3) of Insolvency & Bankruptcy Code, 2016  
r/w Rule 4 of the Insolvency and Bankruptcy  
(Application to Adjudicating Authority) Rules, 2016  
Order delivered on 13<sup>th</sup> February, 2018

Coram: 1. Hon'ble Shri.RatakondaMurali, Member (Judicial)  
2. Hon'ble Shri.Ashok Kumar Mishra, Member (Technical)

IN THE MATTER OF  
AJAY GOPALDAS SAMAT (HUF) & ANOTHER  
Vs  
MAXWORTH REALTY INDIA LIMITED

1. Ajay Gopaldas Samat (HUF) & Another  
Mrs. Manisha A.Samat  
Residing at 4, Brij Bhavan, 63  
Pedder Road, Mumbai – 400 026  
Maharashtra State

.. Operational Creditor

2. Ravi Sankar Devarakonda  
Interim Resolution Professional:  
Maxworth Realty India Ltd.  
IP Registration No.IBBI/IPA-001/IP-P00095/2017-2018/10195  
D-602, Prestige St. Johnswood Apartments  
No.80, Tavarekere Main Road  
Bengaluru - 560 029

.. Applicant

Vs

Directors and other Personnel of  
Maxworth Realty India Ltd.  
KMP House, No.12/2, Yamuna Bai Road  
Madhavanagar, Bengaluru – 560 001

.. Respondent

For the Petitioner (s): Mr. G.Sridhar, Advocate

For the Respondent (s):

Per: Hon'ble Shri.Ashok Kumar Mishra, Member (Technical)

Heard on: 01.02.2018, 05.02.2018

### ORDER

The instant petition has been filed by Ajay Gopaldas Samat (HUF) & Others and Mrs. Manisha A.Samat, hereinafter referred to as the "Financial Creditor" u/s 7 of the Code read with rule 4 of the Insolvency and Bankruptcy Board of India (Application to Adjudicating Authority) Rules, 2016 for initiating Corporate Insolvency Resolution Process (CIRP) against M/s Maxworth Realty India Ltd., hereinafter referred to as the "Corporate Debtor", claiming the dues amounting to Rs.54,68,565/- owed to Financial Creditor, by the Corporate Debtor.

The aforesaid petition was heard on 11<sup>th</sup> December 2017, by this Tribunal and this Tribunal by order dated 5<sup>th</sup> January 2018 appointed the Applicant as the Interim Resolution Professional to carry out the functions mentioned under the Code. A copy of the said order is enclosed with the petition as Annexure-1.

That pursuant to the receipt of the aforesaid order on the evening of 10<sup>th</sup> January 2018, the applicant made a public announcement in accordance with Section 15 of the Code read with Regulation 6 of Chapter III of the Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) Regulations, 2016 in the newspapers viz., The Hindu and Udayavani dated 13<sup>th</sup> January 2018 and also on the website of the Corporate Debtor and the Insolvency and Bankruptcy Board of India. A copy of the said announcement is produced as Annexure-2.

The applicant submits that he has intimated the Directors of Maxworth Realty India Ltd. about the initiation of Corporate Insolvency Resolution Process (CIRP) against Maxworth Realty India Ltd. And his appointment as the Interim Resolution Professional. A copy of the said intimation is produced as Annexure-3 to the petition.

The applicant submits that the Company has not filed any of its Annual Reports after 31<sup>st</sup> March 2013 and hence latest information about the Company is not available in public domain. On inquiry, it was also observed the Company has not complied with other




Statutory obligations under Provident Fund Act and Income Tax Acts. The Applicant also submits that in spite of repeated meetings, messages, mails and telephone calls, Mr. Kesava Kolar, Managing Director and other personnel of the Maxworth Realty India Ltd. are not extending any assistance and co-operation to the Applicant, which is imperative for the Applicant to manage the affairs of the Corporate Debtor. He met Mr. Kesava Kolar in his office on 11<sup>th</sup> January 2018, 13<sup>th</sup> January 2018 and 19<sup>th</sup> January 2018 and sent details of requirements by mail on 21<sup>st</sup> January 2018, 23<sup>rd</sup> January 2018 and 26<sup>th</sup> January 2018. Copies of mails are produced at Annexure-4. In addition to the above, several telephone calls and messages were made on regular basis. However, the management has not provided him with any of the details of the Projects being handled, bank accounts, list of creditors etc. However, the Applicant further submits that under the circumstances the Applicant is not able to carry out his duties and responsibilities as Interim Insolvency Professional as mandated under the law.

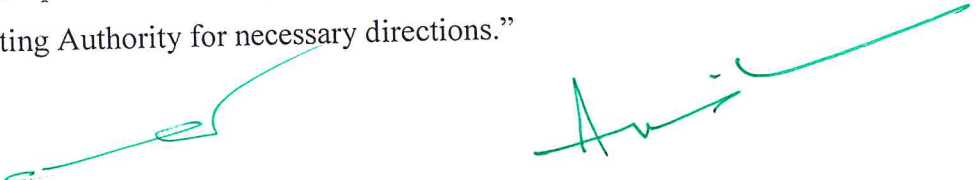
The Applicant further prays for issue of necessary directions to the Directors and Personnel of the Corporate Debtor, Maxworth Realty India Ltd. to extend assistance and co-operation to the Applicant which is imperative for the Applicant to manage the affairs of the Corporate Debtor and to carry out his duties and responsibilities as an Interim Resolution Professional as mandated under law and for such orders/directions as deemed fit in the facts and circumstances of the case.

Sections 19(1) and 19(2) of the Insolvency and Bankruptcy Code, 2016 reads thus:

**“Personnel to extend cooperation to interim resolution professional.**

19. (1) The personnel of the corporate debtor, its promoters or any other person associated with the management of the corporate debtor shall extend all assistance and cooperation to the interim resolution professional as may be required by him in managing the affairs of the corporate debtor.

(2) Where any personnel of the corporate debtor, its promoter or any other person required to assist or cooperate with the interim resolution professional does not assist or cooperate, the interim resolution professional may make an application to the Adjudicating Authority for necessary directions.”





In view of the aforesaid provisions of the Bankruptcy Code and the responsibility assigned to the Interim Resolution Professional with a direction to the Interim Resolution Professional to complete the assignment within the stipulated period as per Section 12 of the Insolvency and Bankruptcy Code, 2016 i.e., within a period of 180 days and further extended by 90 days, the Tribunal directs the Directors and personnel of the Corporate Debtor to extend co-operation to the Interim Resolution Professional/Resolution Professional Sri Ravi Sankar Devarakonda in discharging his duties assigned to him by law. The application is accordingly disposed of.

  
(RATAKONDA MURALI)  
MEMBER, JUDICIAL

  
(ASHOK KUMAR MISHRA)  
MEMBER, TECHNICAL

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