

PRACHI JOHRI

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**BEFORE THE HON'BLE SUPREME COURT OF INDIA
NEW DELHI**

DATE: 12.02.2025

To
The Ld. Registrar
Supreme Court of India, New Delhi

**Subject: Clarification regarding Memo of Parties in Civil Appeal bearing
Diary No. 4654/2025**

Dear Sir/Madam,

The present Civil Appeal has been filed under Section 62 of IBC, 2016 against the impugned order dated 12.12.2024. There was a comprehensive adjudication of the matter by the NCLAT whereby project work was awarded to NBCC despite objections by the allottees such as the Appellant in the present civil appeal.

In the main matter before the NCLAT being Co.App.(AT)(Ins.) 406/2022, NBCC's application being IA No. 6557/2024 and Appellant's application being IA No. 8195/2024 were heard together where the Appellant was permitted to participate in the proceedings. The Appellant is aggrieved by the order and filing appeal as aggrieved person. The Respondent No. 1 (Union Bank of India) and Respondent No. 3 (NBCC) were parties on record before the NCLAT as Respondent No. 1 in Co. App.(AT)(Ins.) 406/2022 and Applicant in IA no. 6557/2024 respectively, making them necessary and property party to the appeal.

Regards



Prachi Johri
Advocate on Record for the Appellant
AOR CODE: 2968

ADVOCATE'S CHECKLIST (TO BE CERTIFIED BY ADVOCATE ON-RECORD)

1.	SLP (C) has been filed in Form No. 28 with certificate.	YES
2.	The Petition is as per the provisions of Order XV Rule 1.	YES
3.	The papers of SLP have been arranged as per Order XXI, Rule (3)(1)(f).	YES
4.	Brief list of dates/events has been filed.	YES
5.	Paragraphs and pages of paper books have been numbered consecutively and correctly noted in Index.	YES
6.	Proper and required number of paper books (1+1) have been filed	YES
7.	The particulars of the impugned judgment passed by the court(s) below are uniformly written in all the documents.	YES
8.	In case of appeal by certificate the appeal is accompanied by judgment and decree appealed from and order granting certificate.	YES
9.	The Annexures referred to in the petition are true copies of the documents before the courts) below and are filed in chronological order as per List of Dates.	YES
10.	The annexures referred to in the petition are filed and indexed separately and not marked collectively.	YES
11.	In SLP against the order passed in Second Appeal, copies of the orders passed by the Trial Court and First Appellate Court have been filed.	NA
12.	The complete listing proforma has been filled in, signed and included in the paper books.	YES
13.	In a petition (PIL) filed under clause (d) of Rule 12(1) Order XXXVIII, the petitioner has disclosed: (a) his full name, complete postal address, e-mail address, phone number, proof regarding personal identification,	N/A

	<p>occupation and annual income, PAN number and National Unique Identity Card number, if any;</p> <p>(b) The facts constituting the cause of action;</p> <p>(c) The nature of injury caused or likely to be caused to the public;</p> <p>(d) the nature and extent of personal interest, if any, of the petitioner (s);</p> <p>(e) details regarding any civil, criminal or revenue litigation, involving the petitioner or any of the petitioners, which has or could have a legal nexus with the issue(s) involved in the Public Interest Litigation.</p>	
14.	In case of appeals under Armed Forces Tribunal Act, 2007, the petitioner/ appellant has moved before the Armed Forces Tribunal for granting certificate for leave to appeal to the Supreme Court.	N/A
15.	All the paperbooks to be filed after curing the defects shall be in order.	YES

I hereby declare that I have personally verified the petition and its contents and it is in conformity with the Supreme Court Rules, 2013. I certify that the above requirements of this Check List have been complied with. I further certify that all the documents necessary for the purpose of hearing of the matter have been filed.

Prachi Johri

Name of AOR: Prachi Johri

AOR CODE: 2968

Phone: 7828421815

New Delhi

Date:

DIARY NO. 4654 OF 2025

DECLARATION

All defects have been cured. Whatever has been added/dated/modified in the appeal is the result of curing of defects and nothing else. Except curing the defect, nothing has been done. Paper books are complete in all respects.

PRACHI JOHRI
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**IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION
CIVIL APPEAL NO. _____ OF 2025**

(Under Order XXIV of the Supreme Court Rules, 2013)

(Against the Order dated 12.12.2024 passed by the National Company Law Appellate Tribunal, New Delhi in IA no. 6557/2024 in Company Appeal (AT) (Insolvency) No. 406 of 2022.)

IN THE MATTER OF:

Vishal Ratan (Supertech Green Village Meerut)

(Representative of Home Buyers)

.... Appellant

VERSUS

Union Bank of India & Ors.

.... Respondents

WITH

I.A.NO. OF 2025

[Application for Ex-Party Interim Stay]

WITH

I.A.NO. OF 2025

[Application for exemption from filing certified copy of impugned order]

WITH

I.A. NO. OF 2025

[Application for permission to file civil appeal]

PAPER BOOK

(KINDLY SEE INSIDE FOR INDEX)

PRACHI JOHRI

ADVOCATE ON RECORD FOR THE APPELLANT

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PROFORMA FOR FIRST LISTING

SECTION- _____

The case pertains to (Please tick/ check the correct box):-

- Central Act (Title): IBC, 2016
- Section: 62
- Central Rule: (Title): NA
- Rule No (s): NA
- State Act: (Title): NA
- Section: NA
- Rule No (s): NA
- Impugned Interim Order: NA
- Impugned Final Order/ Decree: 12.12.2024
- High Court: NA
- Name of Judges: Justice Ashok Bhushan & Mr. Barun Mitra
(Technical Member)
- Tribunal / Authority: (Name): NCLAT, New Delhi

-
1. Nature of matter : CIVIL
 2. Petitioner / Appellant : Vishal Ratan
(b) e-mail ID: vishalratan74@gmail.com
(c) Mobile Phone Number: 7838787860
 3. (a) Respondent No.1: Union Bank of India
(b) e-mail ID: NA
(c) Mobile Phone Number: NA
 4. (a) Main category Classification: 1006
(b) Sub classification: 1006
 5. Not to be listed before: NA
 6. (a) Similar disposed of matter with citation, if any, & case
Details: No Similar Case Disposed of.

(b) Similar pending matter with case details: Not Pending

7. Criminal Matters:

(a) Whether accused / convict has surrendered: Yes No

(b) F.I.R. No. NA

(c) Police Station: NA

(d) Sentenced Awarded: NA

(e) Period of sentence undergone including period of detention / custody undergone NA

(f) Whether any earlier case between the same parties is filed: NA

(g) particulars of the FIR and Case: NA

(h) Whether any bail application was preferred earlier and decision thereupon: NA

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10. Special Category (First petitioner / appellant only):

Senior Citizen > 65 years SC/ST Woman /Child

Disabled Legal Aid Case In Custody

11. Vehicle Number (in case of Motor Accident Claim Matters):

12. Whether there was/is litigation on the same point of law, if yes, details thereof: NA

Date: 25.01.2025

Prachi Johri

AOR for Appellant

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SYNOPSIS AND LIST OF DATES

The instant Appeal is being preferred by Vishal Ratan who is a member of Supertech Group Buyers Association. The Appellant has allotment in project titled Green Village Meerut being developed by the Corporate Debtor i.e., Supertech Limited.

The Appellant is aggrieved by the Order passed by the NCLAT on 12.12.2024 inter alia because IA No. 8195/2024 by the Appellant objecting to IA no.6557/2024 filed by NBCC has not being heard and considered before passing of the Impugned Order nor has the Impugned order dealt with the same.

The Appellant and other members of the buyers' association are aggrieved by the order dated 12.12.2024 passed by National Company Law Appellate Tribunal, New Delhi, disposing off IA no. 6557/2024 in Company Appeal (AT)(Insol) No. 406/2024. Vide the impugned order, the NCLAT has directed Nation Building Constructions Corporation ("NBCC") to take over the projects of the Corporate Debtor including project titled Green Village Meerut. This has been directed without there being any proper proposal submitted by NBCC for each project. NBCC was not able to give any answers to the objections of the Homebuyers in respect of its proposal and yet the NCLAT passed the impugned order without due consideration of relevant facts.

The impugned order is passed while departing from the NCLAT's own position reflected in its interim order dated 10.06.2022 (*as affirmed by this Hon'ble Court vide order dated 11.05.2023, passed in Civil Appeal No. 5941/2022, Civil Appeal No. 1925/2023 & Civil Appeal No. 1975/2023*).

C

The Corporate Debtor has 6 projects and project wise insolvency could have easily ensured that the stakeholders are well taken care of. However, by passing the impugned order in a sweeping manner all 16 projects of the corporate Debtor have been handed over to NBCC without any concrete plan. The said proposal of NBCC is bare shell and devoid of details. All stakeholders have objected to the same as is evident from a number of objections recorded in the impugned order. Yet the impugned order has been passed that not only severely hurts the interests of the stakeholders, especially the homebuyers, but also excludes the homebuyers as the committee for supervision does not include the homebuyers. Since no payment is being offered by NBCC to land authorities, the Homebuyers will not be able to get registry formalities carried out. Since no payment is offered by NBCC to banks, the banks will not offer loans to the Corporate Debtor and/or homebuyers to meet the demands raised by NBCC.

It is a matter of record that the NBCC has this far functioned without any accountability. The NBCC has worked on real estate projects of Unitech Limited and Amrapali but the homebuyers therein have raised serious concerns about poor quality of construction and delay. In the present case, there are buyers awaiting only completion of formalities but all would now have to wait for NBCC to complete construction before being given possession. Moreover, the NBCC's proposal is without any basis. The NBCC has proposed completion of all projects within 12-36 months. These projects are at different stages and require different kind of expertise. The NBCC has given an impossible timeline which it will overshoot very similar to the case of Unitech Limited. Moreover, NBCC will function without any accountability. This is inter alia because NBCC only supervises construction and engages third party contractors for construction.

D

There is serious threat of overshooting costs, the burden whereof will fall on the allottees. There are serious concerns in this methodology of working about corruption. It is not out of place to mention that NBCC's Deputy General Manager has been arrested for corruption charges in 2024 and there is a CBI investigation pending.

It is also submitted that each project of the Corporate Debtor deserves a specific plan and proposal based on its own condition and stage. This approach has shown promising results in the present Corporate Debtor's case itself. The project being Doon Square Project was successfully completed and 7 out of 12 units have already been handed over when a proposal was approved by one EBI Projects and Development LLP specifically for that project. Similarly, proposals, LOI have been received for four other projects which are project specific and take care of needs of all stakeholders.

It is submitted that the conditions imposed by the NCLAT do not take care of the concerns of the buyers/allottees. While allottees have been protected from escalation of costs but there are many ifs and buts. For instance, the NBCC is required to complete award of work in a time bound period as the RP is required to get permissions. However, there is huge scope of delay in both the requirements. The consequence of delay will only befall the allottees. The repayment to land authorities is also to come from the project itself and even RERA Act is to be strictly complied with. These conditions will make the functioning onerous especially since NBCC works on slow timeframes. The Committee constituted by the impugned order has an alleged expert from the Real Estate Industry but does not include any representative of the Allottees who have been completely excluded with no opportunity of presenting their grievance to anybody. Even the

E

account to be maintained project wise will be operated by RP and one person from NBCC. No other party will have any say or any control or accountability regarding the same.

The proposal submitted by NBCC is vague and contingent in nature. It lacks defined timelines and lacks any concrete source of funds. It is unclear as to what is the timeline for achieving what NBCC terms as “Day Zero” and there are many conditions/contingencies that could result in further delays. There is no detailed project-wise plan, despite explicit directions from the NCLAT to submit a detailed proposal.

It is not out of place to mention that alternate proposal from the promoter is details, project wise and with a concrete source of funding obtained by the promoter from Kotak Mahindra Bank. As such, giving project wise detailed plan is not impossible. In this regard IA no. 8178/2024 and IA no. 8179/2024 had been filed by the promoters before the NCLAT in respect of *inter alia* the project of the Appellant’s allotment i.e., Green Village Meerut project. It is submitted that the said project is among the five projects that can be completed by the promoter with Co-developers who are ready to infuse the funds and the timeline was also provided by the promoters. It is submitted that it is felt by the Appellant and other allottees part of the association that the plan can be approved only if it addresses the concerns of all stakeholders, including creditors, homebuyers, and statutory authorities, in a holistic and efficient manner, so that there is no hurdle in quick and effective completion of the projects.

Hence, the present appeal.

F

List of Dates

1988	Supertech Limited and its group companies launched various projects during the period 1988-2015.
21.11.2008	Green Village Meerut Township spread over 25 acres where possession of units has since started. Commencement certificate was granted to Green Village Project in 2018.
25.03.2022	Supertech Limited was admitted into corporate insolvency resolution process and Interim Resolution Professional (IRP) was appointed by NCLT, Delhi
12.04.2022	An Appeal being Company Appeal (AT) (Insolvency) No. 406 of 2022 was filed before the National Company Law Appellate Tribunal against the CIRP Order and the NCLAT directed the IRP not to constitute the Committee of Creditors of Supertech Limited.
02.05.2024	The IRP vide his Status Report submitted to NCLAT on 02.05.2024 emphasized the need for a Project-Wise Resolution as each project has different stakeholders and challenges.
06.09.2024	An Intervention Application (IA No. 6557/2024) was filed by NBCC (India) Limited in CA(AT)(Insv) 406 of 2022 before the NCLAT showing its interest to undertake construction of projects of Supertech Limited as a Project Management Consultant (PMC).

11.09.2024	IA 6644/2024 was filed by promoter of Corporate Debtor that he had completed many projects and stated that investor, namely M/s EBI Projects & Development LLP and Ametek Buildtech Private Limited jointly, expressed intent to revive a project, viz., Doon Square. All stakeholders of the project, including Bank of Baroda who was the sole Financial Lender in the project, had reached a consensus and accepted the terms of the term sheet proposed and had entered into a Master Agreement.
16.10.2024	<p>NCLAT vide its Order held that “5. <i>We have taken note of the order of the Hon’ble Supreme Court and the said order in no manner prohibit in proceeding with the project “Doon Square”, Further the master agreement having entered between into the parties, we thus, are of the view that master agreement be implemented and all necessary steps be taken to complete the project within the time line as provided in the agreement.</i></p> <p style="text-align: center;"><i>6. IA No. 7184/2024- Ld. Counsel for the IRP as well as Counsel for the Appellant seeks time to file the response to the application. Let response be filed within two weeks.</i></p> <p style="text-align: center;"><i>7. List on 21.10.2024.</i></p> <p style="text-align: center;"><i>8. All IA of Project Doon Square stand disposed of.”</i></p>

21.10.2024	NCLAT vide its Order passed directions specifically directing NBCC to submit a " <i>fresh composite proposal project-wise</i> " and that NBCC cannot rely on the earlier proposal given in September 2024.
11.11.2024	That despite a clear direction from the NCLAT in its order dated 21.10.2024, which explicitly required NBCC to submit a detailed, project-wise resolution proposal, NBCC filed a fresh application on 11.11.2024, categorically stating that it was unable to submit a fresh project-wise proposal, indicating a clear failure to comply with the NCLAT's earlier mandate.
29.11.2024	NCLAT heard the Parties including objections by the Homebuyers and reserved its judgement in the IA filed by the NBCC.
12.12.2024	Impugned order came to be passed by NBCC directing takeover of all 16 projects of the Corporate Debtor by NBCC subject to certain conditions imposed by the NCLAT.
	Hence the present appeal is being filed.

IN THE SUPREME COURT OF INDIA**CIVIL APPELLATE JURISDICTION****(Under Order XXIV of the Supreme Court Rules, 2013)****CIVIL APPEAL NO. _____ OF 2025**

(Against the Order dated 12.12.2024 passed by the Hon'ble National Company Law Appellate Tribunal, New Delhi in IA no. 6557/2024 in Company Appeal (AT) (Insolvency) No.406 of 2022.)

IN THE MATTER OF:

Vishal Ratan (Supertech Green Village Meerut)

(Representative of Home Buyers)

.... Appellant

VERSUS

Union Bank of India & Ors.

.... Respondents

IN THE MATTER OF:**POSITION OF PARTIES**

	Before NCLAT	Before this Hon'ble Court
--	-------------------------	--

Vishal Ratan (Supertech Green
Village Meerut)

-

Appellant

(Representative of Home Buyers)

R/o 643/6, Shastri Nagar, Meerut,

Uttar Pradesh 20101

Email:vishalratan74@gmail.com

VERSUS

1 Union Bank of India

Respondent

Respondent

Through its Chief Manager

No.1

No.1

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION
(Under Order XXIV of the Supreme Court Rules, 2013)
CIVIL APPEAL NO. _____ OF 2025

(Against the Order dated 12.12.2024 passed by the Hon'ble National
Company Law Appellate Tribunal, New Delhi in IA no. 6557/2024 in
Company Appeal (AT) (Insolvency) No.406 of 2022.)

IN THE MATTER OF:

Vishal Ratan (Supertech Green Village Meerut)

(Representative of Home Buyers) Appellant

VERSUS

Union Bank of India & Ors.

..... Respondents

IN THE MATTER OF:

POSITION OF PARTIES

	Before NCLAT	Before this Hon'ble Court
Vishal Ratan (Supertech Green Village Meerut) (Representative of Home Buyers) R/o 643/6, Shastri Nagar, Meerut, Uttar Pradesh 20101 Email:vishalratan74@gmail.com	Applicant in IA 8195/2024	Appellant
VERSUS		
1 Union Bank of India Through its Chief Manager	-	Respondent No.1

THE HUMBLE CIVIL APPEAL
OF THE APPELLANTS
ABOVE NAMED

MOST RESPECTFULLY SHOWETH:

1. The instant Civil Appeal is being preferred by the Appellant, who is aggrieved by the impugned Order dated 12.12.2024, passed by the National Company Law Appellate Tribunal, New Delhi (hereinafter referred to as “the NCLAT”) in IA no. 6557/2024 in Company Appeal (AT) (Insolvency) No. 406 of 2022. That the present Appellant is a member of Supertech Group Buyers Association. The Appellant has allotment in project titled Green Village Meerut.
2. The Appellant is a member of Supertech Group Buyers Association. The Appellant has allotment in project titled Green Village Meerut.
- 1B. That the Annexures being **Annexure A-1 to Annexure A-6** filed with this Appeal are the true copies of the corresponding original documents.

2. QUESTION OF LAW

- (i) Whether the direction passed by the NCLAT vide impugned interim order dated 12.12.2024 to handover the projects of Supertech Limited to NBCC is sustainable in law?
- (ii) Whether the NCLAT has failed to take care of the interests of all stakeholders including the allottees?
- (iii) Whether the NCLAT has failed to note that the NBCC has acted contrary to the NCLAT’s own order to submit a detailed project wise plan?

Stressed Assets Management

Vertical Branch,

M-93 Connaught Place,

New Delhi-110001

- | | | | |
|---|--|------------------------------|---------------------|
| 2 | Mr. Hitesh Goel
Interim Resolution Professional
Supertech Limited
Address: Building No. 10, Tower
C, 8th Floor, DLF Cyber City,
Phase II, Gurgaon, Haryana-
122002 | Respondent
No.1 | Respondent
No.2 |
| 3 | NBCC (India) Ltd.
Through Authorised Representative
Address: NBCC Bhawan, Lodhi Road,
New Delhi 110003 | Applicant in
IA 6557/2024 | Respondent
No. 3 |

TO

THE HON'BLE CHIEF
JUSTICE OF INDIA AND HIS
COMPANION JUSTICES OF
THE SUPREME COURT OF
INDIA.

- (iv) Whether the NCLAT erred in approving NBCC's proposal despite the fact that it was merely a "proposal to propose" and lacked substantive commitments, undermining the principles of competitive bidding and transparency in the CIRP?
- (v) Whether the NCLAT failed to note that the NBCC instead of making a project wise proposal has just responded to the objections raised by allottees without providing any concrete plan?
- (vi) Whether the NCLAT failed to note that the NBCC itself is facing serious corruption charges and allegations of delay, overshooting costs and poor quality of construction?
- (vii) Whether the NCLAT failed to note that all the projects of the Corporate Debtor cannot be treated as omnibus and in one stroke while some of the projects at final stages of completion can be handled separately as is the precedent with the Doon Square project?
- (viii) Whether the NCLAT failed to evaluate the competing proposal of the promoter with Co developers with exact funding, timeline and all relevant details for the allottees and other stakeholders as well as with specific source of funds?
- (ix) Whether the NCLAT exceeded its jurisdiction by not making NBCC accountable under the Insolvency and Bankruptcy Code (IBC) and the resolution framework?
- (x) Whether the NCLAT failed to note that the primary responsibility under the IBC is accountability to stakeholders to maximize the assets of the Corporate Debtor

but by treating the projects in one stroke with no accountability, the said responsibility is shirked?

- (xi) Whether the NCLAT failed to note that the committee formed by it completely excludes the homebuyers with no representation on the committee and no grievance redressal forum?
- (xii) Whether the NCLAT failed to note that even the conditions imposed by it are insufficient to take care of the interests of the homebuyers?
- (xiii) Whether the NCLAT failed to examine the fairness and reasonableness of the timelines and alleged proposal of NBCC who is a new party to the Corporate Debtor's projects that has not submitted any concrete proposal, particularly when substantive proposals had already been submitted by investors like OakTree and Varde, but the IRP and financial institutions, including Union Bank of India, chose to explore the market for better options, resulting in significant delays and the eventual withdrawal of OakTree and Varde?

3. BRIEF FACTS OF THE CASE:

That the facts leading to file the instant Appeal in brief are as under:-

- 3.1 That, the promoter has filed an appeal as CA(AT)(Insol) No. 406 of 2022 titled as Ram Kishore Arora v. Union Bank of India & Anr before the NCLAT arising out of the Order dated 25.03.2022 passed by NCLT in CP (IB) no.204 of 2021 titled as "Union Bank of India v. M/s Supertech Limited". True copy of order dated 25.03.2022 passed by NCLT, New Delhi in CP (IB) no. 204 of

2021 titled as “Union Bank of India v. M/s Supertech Limited” is annexed herewith as **Annexure A-1 (page 84 to 98)**

3.2 That, An Intervention Application (IA No. 6557/2024) was filed by NBCC (India) Limited in CA(AT)(Insol) No. 406 of 2022 before the National Company Law Appellate Tribunal showing interest to undertake construction of projects of Supertech Limited as a Project Management Consultant (PMC). NBCC terms its application as ‘Proposal on behalf of NBCC (India) Limited which lacks the. True copy of application being IA No. 6557/2024 dated 06.09.2024 filed by NBCC (India) Limited in CA(AT)(Insol) No. 406 of 2022 before Hon’ble NCLAT is annexed herewith as **Annexure A-2 (page 99 to 152)**.

3.3 That the application filed by NBCC was taken up by the NCLAT on 21.10.2024 whereby on objections by various stakeholders the NCLAT issued specific directions to NBCC mandating to submit a composite project-wise proposal. Relevant para of order dated 21.10.2024 is as follows:-

“composite project wise proposal with regard to all projects with timelines and all other relevant aspects of the matter which proposal of the NBCC should be handed over to the IRP to be put on the website....”

The objections were to be compiled by the RP and submitted to NBCC. NCLAT further dismissed the submission of the NBCC to rely on its earlier proposal and directed that fresh proposal was necessary. True copy of order dated 21.10.2024 passed by the NCLAT in Co. App. (AT)(Insol) No. 406/2024 is annexed herewith as **Annexure A-3 (page 153 to 159)**.

3.4 That, the Respondent no.3/NBCC has categorically failed to comply with the order dated 21.10.2024 and had filed so called

proposal on 11.11.2024 stating their inability to file a composite project wise proposal. True copy of the proposal filed on 11.11.2024 before the NCLAT in IA No. 6557/2024 in Co. App. (AT)(Insol) No. 406/2024 is annexed herewith as **Annexure A-4 (page 160 to 300)**.

3.5The Appellant, as member of the member of Supertech Group Buyers Association has been closely monitoring the statements and arguments presented by Respondent No. 3, NBCC, before the NCLAT. The failure to comply with the NCLAT's order dated 21.10.2024 has raised significant concerns to the Appellant and other allottees regarding the progress and completion of their units in the Supertech Green Village Meerut Project.

3.6The Appellant, dissatisfied with the proposal of Respondent No. 3/NBCC for the reasons previously stated, and with the consent of other allottees, filed an intervention application bearing IA No. 8195/2024 on 16.10.2024 before the NCLAT, strongly objecting to the proposal of Respondent No. 3/NBCC. This application has not been heard by the NCLAT, which subsequently passed the order dated 12.12.2024 in favor of Respondent No. 3/NBCC. A true copy of IA No. 8195/2024 dated 16.10.2024 filed before NCLAT titled Vishal Ratan (Green Village Meerut) Supertech Group Buyers Association v/s Mr. Hitesh Goel and Anr. is annexed hereto as **Annexure A-5 (pages 301 to 367)**.

3.7Despite a clear direction from the NCLAT in its order dated 21.10.2024, NBCC did not submit a fresh proposal. Yet by the impugned order the NCLAT has handed over the projects of the Corporate Debtor to NBCC without there being concrete proposal

and the conditions laid down by the NCLAT do not protect the interests of the homebuyers.

- 3.8 That the allottees of Green Village Meerut have time and again expressed significant concerns regarding the order dated 12.12.2024 passed by NCLAT, which appointed NBCC (India) Limited as the Project Management Consultant for the completion of 16 projects, including the Green Village Meerut project.
- 3.9 That the allottees are apprehensive that the impugned order does not adequately address critical issues such as obtaining the Occupancy Certificate (OC), Completion Certificate (CC), conveyance deed, and property registration. It is believed that without resolving these concerns, the mere construction of the project will not suffice, as it may hinder the registration of ownership in their names in the future.
- 3.10 That the Appellant had filed written submissions on 02.12.2024 before the NCLAT which was not considered by the NCLAT while passing the order dated 12.12.2024. A true copy written submission dated 02.12.2024 filed by the Appellant before NCLAT is annexed hereto as **Annexure A-6 (pages 368 to 381)**.
- 3.11 That in light of these issues, the allottees respectfully request this Hon'ble Court to consider their concerns and ensure that the necessary steps are taken to secure the completion of the project, including the resolution of all legal and regulatory requirements, to facilitate the rightful ownership and possession of their units.

GROUND

4. The Appellant is approaching this Hon'ble Court on following amongst other grounds which are raised in alternate to and without prejudice to each other: -

- A. Because the impugned order is unsustainable and liable to be set aside.
- B. Because the impugned order does not follow the framework of the IBC and is outside the jurisdiction of the NCLAT.
- C. Because the impugned order grants all projects of the Corporate Debtor to NBCC without holding NBCC accountable in the IBC framework and without adjudicating on the locus of the NBCC to file a “proposal”.
- D. Because the NCLAT erred in analysis of the proposal of NBCC contrary to its own direction that the previous proposal of September 2024 was insufficient and did not address the objections raised by the stakeholders including the homebuyers.
- E. BECAUSE despite a clear direction from the NCLAT in its order dated 21.10.2024, which explicitly required NBCC to submit a detailed, project-wise resolution proposal, Respondent No. 3 filed a fresh application on 11.11.2024, categorically stating that it was unable to submit a fresh project-wise proposal, indicating a clear failure to comply with the Tribunal’s earlier mandate. Which clearly shows
- F. Because the impugned order is completely based on the fact that NBCC is a PSU but does not consider the history of NBCC working on projects with complaints of poor construction quality and overshooting of budgets. It cannot be lost sight of that the NBCC is under investigation by CBI for corruption charges.
- G. BECAUSE, the allottees of Green Village Meerut are gravely concerned that NBCC’s involvement appears limited to the construction phase, without addressing critical aspects such as

the registration of facilities, conveyance deeds, and obtaining the Occupancy Certificate. This oversight raises significant apprehensions among the allottees regarding the completion and delivery of promised amenities, which were integral to their initial agreements. The allottees believe that NBCC's focus on construction, without a clear commitment to these essential post-construction processes, is unsatisfactory and fails to meet the expectations set forth in the original builder-buyer agreements.

- H. BECAUSE, The Appellant and other homebuyers of Supertech Green Village Meerut have diligently reviewed the Builder-Buyer Agreement (BBA) and are concerned that the proposed plan does not adequately address the delay compensation provisions outlined in the BBA. The BBA stipulates that in the event of construction delays, the builder is obligated to compensate the homebuyers, ensuring that their interests are protected. The Appellant and other homebuyers are apprehensive that the proposed plan may not fully honor these contractual obligations, potentially leading to financial and emotional distress.
- I. BECAUSE these concerns have prompted the Appellant to seek alternative solutions that more effectively safeguard the interests of the allottees.
- J. BECAUSE the plan submitted by the Promoter, prior to the proposal by NBCC, was more comprehensive and effectively addressed all concerns raised by the homebuyers. This plan provided a clear roadmap for the completion of the project, including timelines and quality assurances, thereby alleviating the apprehensions of the allottees. In contrast, the proposal

from NBCC lacked specific details regarding timelines and quality measures, leading to uncertainty among the allottees. Therefore, the Appellant contends that the Promoter's plan is more favorable and should be considered for the resolution of the project. Importantly, the Appellants submit that it is possible for a comprehensive project wise plan to be submitted and hence NBCC's half baked proposal ought not to have been approved.

- K. BECAUSE as per the Promoter proposal plan the said project can be completed within 12 to 24 months whereas as per the proposal submitted by NBCC the same can be completed within 18 to 36 months + 6 months which will cause delay in handing over the units to the allottees. Thus there is discrepancy is what is possible for the project in which the Appellant is concerned and plans that provide favourable timelines ought to be considered.
- L. BECAUSE the Green Village Meerut project is registered under the RERA provisions and hence, as per section 11(4) (a) and Section 14(3) provides that promoter will be liable for any structural defect within a period of 5 (Five) Years whereas now in NBCCs, NBCC has completely shied away from this responsibility and is seeking immunity from the RERA provisions. Granting immunity to NBCC will become a hurdle for the appellant as well as to the other allottees in near future.
- M. Because the NCLAT has failed to take care of the interests of all stakeholders including the allottees who have raised specific objections to the NBCC's alleged proposal in as much as NBCC does not provide any details of start and end timelines as well as does not provide a source of funds. While the NCLT

dies lay out the timeline for award of work, there is no accountability as to its completion and overshooting of timelines.

- N. Because it is a matter of record that the NBCC has this far functioned without any accountability. The NBCC has worked on real estate projects of Unitech Limited and Amrapali but the homebuyers therein have raised serious concerns about poor quality of construction and delay. In the present case, there are buyers awaiting only completion of formalities but all would now have to wait for NBCC to complete construction before being given possession.
- O. BECAUSE The NCLAT failed to consider that the IRP project report recommended the formation of a Steering Committee or Monitoring Committee. The appellant proposed that a member from the Supertech Group Buyers Association be included in this committee. However, this suggestion was not taken into account. Instead, the impugned order directs the formation of a new committee represented solely by the IRP, without considering the appellant's proposal.
- P. Because it is pertinent that the NBCC will function without any accountability. This is inter alia because NBCC only supervises construction and engages third party contractors for construction. There is serious threat of overshooting costs, the burden whereof will fall on the allottees. There are serious concerns in this methodology of working about corruption. It is not out of place to mention that NBCC's Deputy General Manager has been arrested for corruption charges in 2024 and there is a CBI investigation pending.

- Q. BECAUSE, the appellant and the other allottees are of the view that, the Promoter and/or any party with a favourable plan may be allowed to take up the project along with Co-developers with strict conditions of Steering/Monitoring Committees, the escrow account with home buyers association and other condition work strategy and action plan as recommended by IRP.
- R. Because the NCLAT has failed to note that the NBCC has acted contrary to the NCLAT's own order to submit a details project wise plan. The projects of the Corporate Debtor are at different stages and cannot be treated with one stroke of the brush in a similar manner. For instance the Doon Square project of the Corporate Debtor was resolved successfully by the promoter with co developers where units have already been handed over. As such, treating the project of concern for the Appellant with other projects leads to grave injustice. The project of the Appellant's concern can be easily completed with short deadlines. Therefore, the impugned order is unsustainable and does not consider all relevant facts and position of the projects.
- S. Because the NCLAT failed to note that the NBCC instead of making a project wise proposal has just responded to the objections raised by allottees without providing any concrete plan. The NCLAT ought not to have doubled down on its own direction to submit fresh proposal which was project wise, This was felt necessary by stakeholders and even the NCLAT since the scope of real estate insolvency resolution is complex.
- T. Because the NCLAT failed to evaluate the competing proposal of the promoter with Co developers with exact funding,

timeline and all relevant details for the allottees and other stakeholders as well as with specific source of funds. The co-developers have already resolved one project successfully, as stated hereinabove. In this regard IA no. 8178/2024 and IA no. 8179/2024 had been filed by the promoters before the NCLAT in respect of inter alia the project of the Appellant's allotment i.e., Green Village Meerut project. It is submitted that the said project is among the five projects that can be completed by the promoter with Co-developers who are ready to infuse the funds and the timeline was also provided by the promoters. It is submitted that it is felt by the Appellant and other allottees part of the association that the plan can be approved only if it addresses the concerns of all stakeholders, including creditors, homebuyers, and statutory authorities, in a holistic and efficient manner, so that there is no hurdle in quick and effective completion of the projects.

- U. Because the interests of the homebuyers lies in quick and correct redressal of their grievances. Any decision taken to handover the project without due consideration of facts will only delay the delivery of the project. As such, due consideration of all proposals including the competing proposals to that of NBCC is crucial and relevant to the homebuyers. Any default by NBCC at a later date since there is no concrete details in its proposals would seriously harm the interests of the homebuyers.
- V. Because the NCLAT exceeded its jurisdiction by not making NBCC accountable under the Insolvency and Bankruptcy Code (IBC) and the resolution framework. The NBCC has no locus to have filed a loose proposal and even refuse to submit a

detailed project wise proposal despite directions. Even the guidelines /conditions laid by the NCLAT do not follow the IBC framework where conditions such as eligibility and default by Resolution Applicant has serious consequences.

- W. Because the NCLAT failed to note that the primary responsibility under the IBC is accountability to stakeholders to maximize the assets of the Corporate Debtor but by treating the projects in one stroke with no accountability, the said responsibility is shirked.
- X. Because the NCLAT failed to note that the committee formed by it completely excludes the homebuyers with no representation on the committee and no grievance redressal forum. There are other serious concerns as well which neither the NBCC's proposal addresses nor do the conditions imposed by the NCLAT provide for. Since no payment is being offered by NBCC to land authorities, the Homebuyers will not be able to get registry formalities carried out. Since no payment is offered by NBCC to banks, the banks will not offer loans to the Corporate Debtor and/or homebuyers to meet the demands raised by NBCC.
- Y. Because the NCLAT failed to note that even the conditions imposed by it are insufficient to take care of the interests of the homebuyers. While allottees have been protected from escalation of costs but there are many ifs and buts. For instance, the NBCC is required to complete award of work in a time bound period as the RP is required to get permissions. However, there is huge scope of delay in both the requirements. The consequence of delay will only befall the allottees. The repayment to land authorities is also to come from the project

itself and even RERA Act is to be strictly complied with. These conditions will make the functioning onerous especially since NBCC works on slow timeframes. The Committee constituted by the impugned order has an alleged expert from the Real Estate Industry but does not include any representative of the Allottees who have been completely excluded with no opportunity of presenting their grievance to anybody. Even the account to be maintained project wise will be operated by RP and one person from NBCC. No other party will have any say or any control or accountability regarding the same.

Z. BECAUSE the NBCC has placed reliance on vague comfort letters from financial institutions. These letters, including one from HUDCO, are non-committal and do not represent any genuine financial commitment. Therefore, when the NCLAT lays down a condition that the homebuyers will not be asked for additional funds, the NBCC's proposal becomes non workable if any of these sources of fund mentioned by the NBCC does not materialize. It is submitted that a shaky proposal thus is only adverse to the interests of the homebuyers and the conditions imposed by the NCLAT make it further unworkable.

AA. Because even otherwise the impugned order is unsustainable and deserves to be set aside in as much as objections raised have not been duly considered. The parties have been denied due and effective hearing.

BB. Because even otherwise on due consideration of facts and the law the impugned order deserves to be set aside.

5. The Appellant have not filed any other appeal in this Hon'ble Court or any other court of law for these or similar relief(s)

against the impugned order dated 12.12.2024 passed by NCLAT, New Delhi in IA no. 6557/2024 in Co. App. (AT)(Insol) no. 406/2022 . There are no matters pending in any court filed by the Appellant in respect of the said impugned order.

6. The Appellant submit that the present appeal is being filed bona fide and in the interest of justice.

PRAYER

It is therefore most respectfully prayed that this Hon'ble Court may graciously be pleased to:

- a) Admit and allow the present Appeal and set aside the Impugned Order dated 12.12.2024 passed by the National Company Law Appellate Tribunal, New Delhi in IA no. 6557/2024 in Company Appeal (AT) (Insolvency) No. 406 of 2022 and; and/or
- b) Issue or pass any direction or order which this Hon'ble Court may deem fit and proper under the facts and circumstances of the case.

AND FOR THIS KINDNESS THE APPELLANT ABOVE-NAMED SHALL AS IN DUTY BOUND EVER PRAY

FILED BY

Poochi Jothi

Advocate on Record for the Appellant

DRAWN ON:

FILED ON: 25.01.2025

**IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION
CIVIL APPEAL NO. _____ OF 2025**

(Under Order XXIV of the Supreme Court Rules, 2013)

(Against the Order dated 12.12.2024 passed by the National Company Law Appellate Tribunal, New Delhi in IA no. 6557/2024 in Company Appeal (AT) (Insolvency) No. 406 of 2022.)

IN THE MATTER OF:

Vikas Ratan (Supertech Green Village Meerut)

(Representative of Home Buyers)

.... Appellant

VERSUS

Union Bank of India & Ors.

.... Respondents

CERTIFICATE

Certified that the Civil Appeal is confined only to the pleadings before the Court whose order is challenged and the documents relied upon in those proceedings. No additional facts, documents or grounds have been taken or relied upon in the Civil Appeal. It is further certified that the copies of documents/annexures attached to the Civil Appeal are necessary to answer the questions of law raised in the petition for consideration of this Hon'ble Supreme Court. This certificate is given on the basis of the instructions given by the Appellant whose affidavit is filed in support of the Civil Appeal.

Prachi Johri

Prachi Johri

AOR Code: 2968

AOR for the Appellant

Date: 25.01.2025

Place: New Delhi

**IN THE HON'BLE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION
CIVIL APPEAL NO. _____ OF 2024
(Arising out of final order and judgment dated 12.12.2024
passed by Hon'ble NCLAT, New Delhi, in Company Appeal
(AT) (Insolvency) No. 406 of 2022)**

IN THE MATTER OF :

Vishal Ratan (Supertech ...Appellant
Green Village Meerut)
(Representative of Home Buyers)



Versus

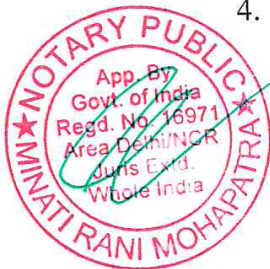
Union Bank of India & Ors.

...Respondent

AFFIDAVIT

I, Vishal Ratan, s/o Grrish Chandra Sharma, aged about 49 years, presently at Delhi
R/O 643/6, Shastri Nagar, Meerut, Uttar Pradesh 201201, do
solemnly affirm and swear as under:

1. That I am the Appellant in the present case and fully aware of the facts and circumstances of the present case and competent to swear the present affidavit.
2. That the accompanying Appeal has been drafted by my Counsel at my instructions and I confirm the contents thereof to be true and correct to the best of my knowledge. Nothing material has been concealed therefrom.
3. The contents of Paragraph 1 to 6 are true and correct based on my knowledge and the contents of paragraph 1 to 6 are believed to be true based on the legal advice received by me.
4. The documents filed along with the Appeal are true copies of their respective originals.




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[Signature]

DEPONENT

VERIFICATION

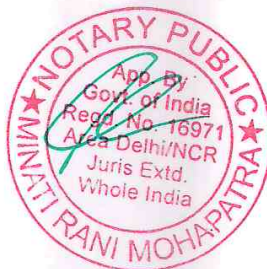
25 JAN 2025

Verified at New Delhi on day of January, 2025 that the statements in para 1-3 of the above affidavit are true and correct. Nothing material has been concealed therefrom.

[Signature]

DEPONENT

IDENTIFIED



25 JAN 2025

ATTESTED

[Signature]
MINATI RANI MOHAPATRA
NOTARY DELHI-R-16971
GOVERNMENT OF INDIA
SUPREME COURT OF INDIA
COMPOUND NEW DELHI
REGISTER Pg./Sl. No. *[Signature]*

[Signature]

MINATI RANI MOHAPATRA
ADVOCATE (NOTARY)
Mob. No.: 8130128457