

ITEM NO.23

COURT NO.17

SECTION XVII-B

S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G S

Civil Appeal No(s). 4471/2026

SGN UNIVERSAL CONSTRUCTION COMPANY PRIVATE LIMITED Appellant(s)

VERSUS

SHAILENDRA KUMAR SINGH & ORS.ETC.

Respondent(s)

FOR ADMISSION, IA No. 115399/2026 - APPROPRIATE ORDERS/DIRECTIONS
IA No. 115412/2026 - PERMISSION TO FILE ADDITIONAL
DOCUMENTS/FACTS/ANNEXURES, IA No. 115406/2026 - PERMISSION TO FILE
LENGTHY LIST OF DATES, IA No. 115366/2026 - STAY APPLICATION

Date : 27-04-2026 This matter was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE K.V. VISWANATHAN
HON'BLE MR. JUSTICE VIPUL M. PANCHOLI

For Appellant(s) Mr. Mukul Rohatgi, Sr. Adv.
Mr. Gautam Narayan, Sr. Adv.
Ms. Aakashi Lodha, AOR
Mr. Sanjeevi Seshadri, Adv.
Ms. Nishtha Jindal, Adv.
Mr. Namanjeet Bhatia, Adv.

For Respondent(s) Mr. Neeraj Malhotra, Sr. Adv.
Mr. Deepak Prakash, AOR
Mr. Abhyuday Dhasmana, Adv.
Mr. Nimish Kumar, Adv.

Mr. Kunal Tandon, Sr. Adv.
Mr. Amit Kr. Singh, Adv.
Mr. Prabhsharan Singh Mohi, Adv.
Mr. Aviral Kashyap, AOR
Mr J.Rajesh, Adv.
Ms. Natasha, Adv.
Ms. Shreeni, Adv.
Mr. Md.Arsalan Ahmed, Adv.

UPON hearing the counsel the Court made the following
O R D E R

1. Heard Mr. Mukul Rohatgi and Mr. Gautam Narayan, learned Senior counsel appearing for the appellant, Mr. Neeraj Malhotra, learned Senior counsel appearing for Resolution

Professional-(respondent no.41), Mr. Kunal Tandon, learned Senior counsel and Mr. J.Rajesh, learned counsel for respondent nos.1-40.

2. Service of notice is waived for the respondents as all parties stand served.

3. The dispute in this case pertains to whether Tower 5 and the land beneath therein is an asset of the Corporate Debtor so as to be covered as part of Corporate Insolvency Resolution Process (for short, 'CIRP'). While Mr. Rohatgi and Mr.Narayan, learned Senior counsel for the appellant assert that the said Tower 5 is outside the CIRP and in fact, they are protected by order of injunction passed by the Arbitrator prior to CIRP, the respondents have a contrary case.

4. Learned Senior counsel/counsel for the respondents submits that Tower 5 is integral to Tower 3 and 4 and all amenities like swimming pool etc.,are situated in Tower 5 and Tower 5 is an asset of the Corporate Debtor. They also submitted that the mandate of the arbitrator has been terminated and the injunction is not in force. They also contended that the admission order of the CIRP itself is not in challenge and what is being argued is on the disposal of the appellant's application i.e. IA No.2197(ND)/2024 which is filed before the Adjudicating Authority.

5. In the order passed by the Adjudicating Authority admitting the CIRP and disposing of IA No.2197(ND)/2024, certain observations were made in para 6.1 and 6.7 to 6.13. According to the respondents, the appellants are only

aggrieved by the observations and that was why an appeal was filed to NCLAT.

6. We are of the opinion that the matter requires a further examination.

7. During the time when the matter was pending in the NCLAT, an order dated 02.12.2024 was in force. The operative order is as under:-

"11. The Sole Arbitrator issued following interim directions in paragraph 28:

"28. During the hearing of the application, the tribunal had suggested to the parties, the following steps, which were broadly agreed to by the parties. Having regard to the preceding discussion, the application under Section 17 (which was originally made to the High Court, under Section 9) therefore, merits an order, and deserves to succeed. It is allowed in the following terms:

(i) Morpheus and its directors, CEO, agents, or anyone acting on its behalf are hereby restrained from holding out to any member of the public that the said respondent company has any manner of right, or interest to market, sell, transfer, alienate, or agree to sell, transfer or alienate any flat, unit, or marketable space in Tower No. 5 of Morpheus Bluebell, Plot No. GH-04, Sector 04, Greater Noida, UP. Morpheus and its directors, CEO, agents, or anyone acting on its behalf are hereby restrained from in any manner transferring, allotting, selling or creating any form of interest in favour of any third party, in any flat or unit, etc. in the said Tower No. 5 of Morpheus Bluebell, Plot No. GH-04, Sector 04, Greater Noida, UP.

(ii) Morpheus is directed to complete formalities in respect of sanction for the entire project, particularly Tower No. 5 within eight weeks from today.

(iii) Morpheus shall also ensure that its obligations for completing and finishing the

common area works, are taken up at the earliest and completed within six months, (in terms of Clauses 2.2 and 2.3) in terms of the DA and ADA, for the overall welfare of the flat buyers. This is without prejudice to the rights and obligations of the parties, which would be adjudicated on the merits.

(iv) Morpheus is further to take steps (within six weeks) and ensure that the RERA registration for the project, i.e. Tower No. 5 is revived. RERA shall intimate the necessary formalities and ensure that the registration is revived.

(v) Morpheus is directed to substitute SGN as account holder of escrow account; and enter into a tripartite agreement with SGN and the bank concerned in this regard. UPRERA would ensure co-operation for this measure. This process shall be completed within eight weeks.

(vi) It is understood that the expenditure incurred by SGN is Rs. 20.5 crores, *prima facie*, as per the record.

(vii) The claimant/applicant SGN is, as an interim measure, held entitled to act upon the terms of the DA and ADA, and to transfer all such flats/units which are ready, and will be completed in Tower No. 5. This shall be in terms of the said two documents (DA and ADA); SGN shall receive such amounts towards booking, sale/transfer, etc. as is agreed with individual flat/unit purchasers. SGN is directed to open a specific bank account into which such amounts received will be deposited. SGN shall ensure that quarterly audit statements, by way of affidavits are filed by its auditor, in regard with all such amounts. These affidavits shall be filed with the tribunal, with copies to Morpheus. Additionally, it shall file monthly bank statements certified by the manager of the said bank, with copies to the tribunal.

(viii) Both SGN and Morpheus shall file affidavits of their duly authorized officials/managers, indicating steps taken in compliance with the above directions, within six weeks from today"

12. The interim orders were passed by the Delhi High Court as well as by the Sole Arbitrator under Section 17 of the Arbitration Act and the Appellant has been

protected by the said interim orders, with respect to Tower No.5 and *prima facie* the Appellant's case with regard to Tower No.5 has been acknowledged in the aforesaid interim orders.

13. It is true that RP is entitled to take possession of the assets of the CD by virtue of Section 18(1)(f), however, the issue as to whether Tower No.5 is also asset of the CD, is an issue which is under consideration before the Sole Arbitrator, where the IRP/RP is entitled to appear and protect the interest of the CD. The learned Counsel for the RP has also referred to Section 18(1)(f) (vi) of the IBC. The respective submissions, which have been made by learned Counsel for the parties, need consideration.

14. Issue Notice to the Respondents. Let reply be filed within three weeks. Rejoinder, if any, be filed within two weeks thereafter.

15. In the meantime, in view of the interim orders passed by the Delhi High Court and the Sole Arbitrator, as noted above, the RP may not take actual physical possession of Tower No.5 except a symbolic possession, since the rights of the parties are yet to be determined with regard to Tower No.5. We make it clear that any observations made by us in the order are only *prima facie* observations and may not be treated as expression of any opinion on the contention of both the parties, which are yet to be finally determined.

List these two Appeal(s) on 10th January, 2025."

8. The said order of the NCLAT shall continue till further orders.

9. List the matter on 21st July, 2026.

**(NIRMALA NEGI)
ASTT. REGISTRAR-cum-PS**

**(MANOJ KUMAR)
COURT MASTER (NSH)**