

NATIONAL COMPANY LAW APPELLATE TRIBUNAL
AT CHENNAI
(APPELLATE JURISDICTION)

Company Appeal (AT) (CH) (Ins) No. 275/2026
(IA Nos. 779 & 780/2026)

In the matter of:

**M/s. Sri Brindhavan Brick Works,
A Registered Partnership Firm, Rep. by its Partners,
No. 311, Selvi Jayakumar Street, Golden George Nagar,
Nerkundram, Chennai – 600 107. ... Appellant**

V

**M/s. DiMax Restructuring Private Limited,
Through authorized signatory Mr. Ashish Vyas,
Liquidator, M/s. Maan Sarovar Properties
Development Private Limited,
Reg. No. IBBI/IPE-0172/IPA-3/2024-2-25/50087
B-1A, Viceroy Court CHS, Thakur Village, Kandivali (East),
Mumbai Suburban, Maharashtra – 400 101. ... Respondent**

Present :

For Appellant : Mr. E. Om Prakash, Senior Advocate
For Ms. A. Rithikha, Advocate

ORDER
(Hybrid Mode)

Oral Judgment: Justice Sharad Kumar Sharma, Member (Judicial):-

09.06.2026:

This Company Appeal is marked as defective. Owing to the certain defects as pointed out by the Registry, which, as per the report of the Registry dated 20.03.2026, have been rectified. Hence, the defects as pointed out by the Registry on 03.06.2026 for filing the legible copies would stand overruled.

2. The Company Appeal is accompanied with **IA No.780/2026**, where the Appellant has sought for a condonation of 11 days of delay that has chanced in refiling of the Company Appeal. Having considered the reasons detailed in the

said application for seeking condonation of delay in refiling, the delay would stand condoned. Accordingly, **IA No.780/2026** would stand allowed.

3. Heard Learned Senior Counsel for the Appellant on the merits of the Company Appeal. Primarily, the concern expressed by the Appellant, while putting the challenge to the impugned order dated 10.02.2026 as rendered in IA(IBC)/210(CHE)/2026, which was preferred in CP(IB) No.706(CHE)/2020, is in reference to the relief (iii) which has been granted qua the prayer sought for in the IA(IBC)/210(CHE)/2026 preferred by invoking the provisions contained under Section 33(5) of the I & B Code, 2016, wherein the relief (iii) sought for in IA was modulated to the following effect: -

*“(iii) Grant leave and prior approval under Section 33(5) of the Insolvency and Bankruptcy Code, 2016, permitting the Applicant / Liquidator to institute, prosecute and defend appropriate civil suit(s) and/or other legal proceedings before the competent Civil Court(s) **challenging the unilateral termination of the Joint Development Agreement dated 14.11.2003 and cancellation of the General Power of Attorney dated 14.11.2003 by M/s. Sri Brindhavan Brick Works in respect of the Manapakkam Project, and to seek all consequential and incidental reliefs including declaration, injunction, restitution, damages, and recovery of amounts invested by the Corporate Debtor;**”*

4. If we could summarise the relief that, was sought in the IA, which was made as the subject matter of consideration before the Learned Tribunal as adjudicated by the impugned order, the Applicant has sought to invoke the

proviso to Section 33(5) of the I & B Code, 2016, limited for the purposes of seeking leave of the Tribunal permitting the liquidator to prove with other legal proceedings before competent Civil Court for putting the challenge to the act of unilateral termination of the Joint Development Agreement dated 14.11.2003 and the Cancellation of the General Power of Attorney of 14.11.2003 that was executed by M/s. Sri Brindhavan Brick Works, the Appellant herein, in respect of Manapakkam project.

5. What is being attempted to be argued by the Learned Senior Counsel for the Appellant is that, in fact, the project in relation to which the aforesaid Development Agreement or General Power of Attorney are related to i.e., Manapakkam property, is already the subject matter of consideration in Comp App (AT) (Ins) No.83/2025 and Comp App (AT) (Ins) No.141/2025, and is pending consideration before this Learned Appellate Tribunal, after the grant of the interim order.

6. The inference, which has been drawn by the Learned Senior Counsel for the Appellant is that the grant of the liberty under the proviso to Section 33(5) of the I & B Code, 2016, will adversely affect the proceedings of the Company Appeal in itself because the propriety of the termination order of the said two documents has been left open to be adjudicated upon by the Civil Court. However, in our view, the code itself prescribes and embodies an exception that, such a type of contingency, where a particular document creating a right is

subjected to challenge owing to its termination would always fall for its judicial consideration before the regular civil proceedings, as it entails a detailed process of entertaining evidence and its appreciation. In that view, the question of whether the alleged unilateral termination of the Joint Development Agreement dated 14.11.2003 and the Cancellation of General Power of Attorney dated 14.11.2003, is good in law, could not have been made as a subject matter of proceedings to be dealt with by the Learned Adjudicating Authority, or could not have been made as a subject matter in the pending Company Appeal before this Learned Appellate Tribunal.

7. The statute as per the proviso to Section 33(5) of the I & B Code, 2016, itself has left open that initiation of the proceedings in other forums for adjudication of disputes involving the Corporate Debtor could be done, subject to the liberty to be granted by the Learned Tribunal, and the same has been granted by the Learned Tribunal while exercising its powers under proviso to Section 33(5) of the I & B Code, 2016. Further, the said liberty granted will only facilitate in deciding the controversy of whether the termination is correct without affecting any right of the Appellant in relation to the subject property, because only the said agreements and their termination alone are to be tested in Civil Court. Determination of validity of the termination of the said 2 agreements by a regular Civil Court will have no adverse bearing so far as the rights of the Appellant is concerned, which is still reserved to be adjudicated in the Company Appeal, on its own merits. Grant of permission to challenge the termination is exclusively

within the domain of exercise of powers by the Learned Adjudicating Authority as contemplated under the proviso to Section 33(5) of the I & B Code, 2016. Therefore, the order does not suffer from any apparent error, which could call for any interference by the exercise of our powers of Appellate provision under Section 61 of the I & B Code, 2016. The Company Appeal being **Comp App (AT) (CH) (Ins) No.275/2026** lacks merit, and the same is accordingly dismissed.

[Justice Sharad Kumar Sharma]
Member (Judicial)

[Jatindranath Swain]
Member (Technical)

VG/MS/AK