

NATIONAL COMPANY LAW APPELLATE TRIBUNAL
PRINCIPAL BENCH: NEW DELHI

Company Appeal (AT) No. 342 of 2026

[Arising out of the Impugned Order dated 25.06.2026 passed by the National Company Law Tribunal, Mumbai Bench in C.P. No. 265/(MB)/2017]

IN THE MATTER OF:

Mehul Vyas

Having address at: L-17, Dreams the Mall,
L.B.S. Road, Bhandup (West),
Mumbai – 400078

...Appellant

Versus

Fiba Shipping Agency & Ors.

... Respondents

Present:

For Appellant : Mr. Shubhranshu Padhi, Mr. Aman Varma, Ms. Riya Wasade, Mr. D. Girish Kumar and Ms. Minal Mishra, Advocates

For Respondents : Mr. Jay Savla, Sr. Advocate with Mr. Prabhat Chaurasia, Ms. Kenisha Savla and Mr. Inder Singh Mahara, Advocates for R- 1 to 122 & 124 to 138.

Ms. Meghna Rao, Mr. Abhishek Bose and Mr. Muffadal Paperwala, Advocates for R-146.

J U D G M E N T
(Hybrid Mode)

[Per: Arun Baroka, Member (Technical)]

The present Appeal is filed against the Judgment and Final Order dated 25.06.2026 (“Impugned Order”) passed by the Ld. National Company Law Tribunal, Mumbai Bench (“Ld. NCLT”) in Company Petition No. 265/MB/2017 (“Company Petition”) filed under Sections 241 and 242 of the Companies Act, 2013 (“Act”), whereby the Ld. NCLT disposed of the Company Petition by issuing wide-ranging directions restructuring the shareholding and

management of Dreams the Mall Company Limited (“the Company”). The Impugned Order constitutes a new Board of Directors, directs re-determination of the shareholding of more than 1,000 shareholders, and authorizes the newly constituted Board to determine the rights and liabilities of the shop owners/ shareholders, including the Appellant.

2. In one subsequent few paragraphs, we record the submissions of the Appellant.

3. The Company Dreams the Mall Company Limited was incorporated on 10.05.2013 for the purpose of administration, management and maintenance of Dreams the Mall, situated at L.B.S. Marg, Bhandup (West), Mumbai (“Mall”). Equity shares of the Company were allotted to more than 1,000 purchasers of commercial premises in the Mall, collectively holding approximately 27,519 equity shares. The Appellant is one such shareholder, being the owner of Shop Nos. L-17 and L-217B, in whose favour a Share Certificate dated 02.07.2013 was issued. Subsequently, certain disputes arose concerning the management and affairs of the Company, culminating in the institution of Company Petition No. 265/MB/2017 (“Company Petition”) by certain shareholders by Fiba Shipping Agency through Mr. Nithin Bangera (“Original Petitioner No. 1”) on behalf of around 137 other shop owners (“Original Petitioners”) alleging acts of oppression and mismanagement by the Company under Sections 241 and 242 of the Act. Subsequently, by order dated 31.08.2018, the Ld. NCLT appointed Mr. Rahul P. Sahasrabuddhe as the Administrator (“Administrator”) to manage the affairs of the Company pending adjudication of the Company Petition.

Thereafter, by order dated 10.12.2018, the Ld. NCLT directed recovery of Common Area Maintenance (“CAM”) charges from the shop owners at the rate of ₹ 15/- per sq. ft. with effect from 01.09.2018. Being directly affected by the proceedings, the Appellant, not being made a party to the Company Petition was constrained to file Intervention Application No. 859/2019, seeking impleadment in the Company Petition. The Appellant also disputed the maintainability of the Company Petition, the representative capacity of the Original Petitioners and the legality of recovery of CAM charges. The said Intervention Application remained pending throughout the proceedings of the Company Petition, and even at the time of passing of the Impugned Order. While the Company Petition remained pending, the affairs of the Mall underwent substantial changes. Serious allegations were made regarding the functioning of the Administrator. The Appellant and several other shop owners repeatedly brought to the notice of the Ld. NCLT regarding the irregularities in the administration of the Mall. On 25.03.2021, a devastating fire engulfed the Mall, rendering the premises commercially non-functional. Consequent thereto, the Fire NOC and Occupation Certificate of the Mall were revoked, and the Mall ceased to be fit for occupation. That the Administrator was even arraigned as an accused in relation to the fire incident by the police authorities. Despite these developments, vide order dated 19.05.2021, the Ld. NCLT re-iterated the directions regarding recovery of CAM charges, whereupon the Appellant preferred Company Appeal (AT) No. 58/ 2021 (“2021 Appeal”), before this Hon’ble Appellate Tribunal.

4. Parallely, in the Company Petition, in view of the allegations against the Administrator by the Appellant herein and others, the Ld. NCLT, by order dated 03.01.2022, replaced Mr. Rahul P. Sahasrabuddhe with Mr. Deepak P. Thakre as the new Administrator (“new Administrator”). Pursuant to the devastating fire of 25.03.2021 and the subsequent fire incident dated 04.03.2022, the Mall remained completely non-functional and uninhabitable. The new Administrator subsequently directed a structural audit of the Mall to be conducted resulting in the Structural Audit Report dated June 2022 which concluded that the building had suffered extensive structural damage and would require major rehabilitation. By communications dated 09.01.2025, 31.01.2025 and 10.02.2025, the Municipal Corporation of Greater Mumbai (“MCGM”) informed the Administrator that property tax dues exceeding ₹ 60,15,15,299/- remained unpaid and that no permission for repairs or reconstruction would be granted until such statutory liabilities were discharged. Vide communication dated 09.06.2025, the MCGM directed immediate attachment of the properties of the defaulting stakeholders of the Mall, and recorded that the requisite sanctions had already been obtained from competent authorities regarding property tax defaulters within the Mall, and sought an urgent compliance report.

5. Parallely, by order dated 20.06.2024, the Ld. NCLT issued further directions concerning repairs and maintenance, which were challenged before this Hon’ble Tribunal by the Appellant through Company Appeal (AT) No. 250/2024 (“2024 Appeal”). During the proceedings in the 2024 Appeal and considering the uninhabitable condition of the Mall, this Hon’ble Tribunal,

vide order dated 03.10.2024, issued directions requiring payment of maintenance of the Mall only up to 31.03.2021, pre fire incident.

6. Thereafter, vide order dated 23.09.2025, the Ld. NCLT directed, as an interim measure, that a new Board of the Company would be constituted comprising one nominee each from (a) Unity Small Finance Bank; (b) Wadhawan Holdings Private Limited; (c) HDIL (Respondent No. 146); and (d) Privilege Healthcare Services Private Limited (Respondent No. 147). That the Ld. NCLT further directed that all small shop owners would be represented by 4 nominees on the Board of the Company being, (i) Gurudas Chopadekar; (ii) Nithin Bangera; (iii) Chandraprakash Pandey; and (iv) CA Madanlal Tater.

7. The Appellant filed I.A. No. 168/2026 on 13.05.2026, placing before the Ld. NCLT subsequent developments including repeated fire incidents, revocation of statutory approvals, pending criminal proceedings, municipal recovery proceedings, outstanding statutory liabilities, and other material developments directly affecting the affairs of the Company, and adjudication of the Company Petition. The Appellant also objected to the constitution of the proposed Board on the ground that several proposed members were themselves defaulting Original Petitioners, or otherwise ineligible. The Appellant also tendered to the Ld. NCLT detailed Written Submissions dated 14.05.2026, in the Company Petition. That the Company Petition was reserved for judgment on 15.05.2026. However, vide order dated 09.06.2026, the Ld. NCLT dismissed I.A. No. 168/2026, without considering the relevance of the material placed on record, solely on the ground that the Company

Petition had already been reserved for judgment, and additional documents could not be taken into consideration at such stage.

8. Vide the Impugned Order dated 25.06.2026, the Ld. NCLT finally disposed of the Company Petition by issuing directions, inter alia, allowing the affairs of the Company to be fundamentally restructured. The Ld. NCLT directed that the shareholding of the Company be reworked by allotting shares to all shop owners in proportion to the carpet area of their respective units and further ordered cancellation of all existing share allotments found to be in excess of such entitlement. The Ld. NCLT further constituted a new Board of Directors and vested it with the authority to determine the share entitlement of every shareholder, ascertain and recover maintenance charges, statutory dues and other liabilities, convene a General Body Meeting for fresh allotment of shares and fixation of maintenance charges, and take over the complete management and affairs of the Company from the Administrator. The newly constituted Board was also authorized to examine the conduct of the erstwhile Administrators.

9. It is contended that the Impugned Order is erroneous principally on the ground that the Ld. NCLT disposed of the Company Petition without adjudicating the Appellant's pending Intervention Application, without considering the subsequent development placed on record by way of I.A. No. 168/2026, without examining the maintainability of the Company Petition and while several connected appeals arising out of the same proceedings remained pending before this Hon'ble Appellate Tribunal. The Impugned Order further does not return any findings on the allegations of fraud and

forgery against the Original Petitioners, nor the collusive conduct of the Administrator with the Original Petitioners. That the Impugned Order further delegates adjudicatory functions to the newly constituted Board by authorizing it to determine the shareholding, liabilities and rights of shareholders, notwithstanding that such issues required determination by the Ld. NCLT itself. Hence, aggrieved by the Impugned Order, the present Appeal has been filed.

10. In his Written Submissions dated 22.09.2026, the Appellant has additionally submitted that the Board was constituted under Section 242(2)(k) of the Act, which contemplates directors who report to the Tribunal. It was therefore intended only to function pending final determination of the shareholding and to report to the Ld. NCLT. Yet, by para 10 of the order dated 23.09.2025, the new Board was protected against liability for its past and future acts, save those not bona fide, and every authority was barred from taking cognizance of complaints against its members without leave of the Ld. NCLT. It is contended that the Board so protected includes nominees of Respondent Nos. 140 to 148, against whom the allegations of oppression and mismanagement in the Company Petition were directed. It is further contended that the list of defaulters annexed to the order dated 20.06.2024 shows outstanding dues as on 31.03.2024 against every constituent of the Board, including ₹10,69,34,965/- against Wadhawan Holdings Private Limited and ₹10,81,24,470/- (post-CIRP) against HDIL. The Appellant points out that the prayers in the Company Petition sought a declaration of oppression and mismanagement, removal of the directors, handing over of

management, appointment of an Administrator and winding up, and none of them sought restructuring of the shareholding. It is further submitted that the Impugned Order directs deposit of monthly dues from July 2026 without any finding on the feasibility, cost or timeline of revival. The Structural Audit Report itself estimates the cost of repairing the fire-affected area alone at ₹41.20 crore, and the Administrator, in his reply in the 2024 Appeal, had stated that no CAM charges were being sought after the closure of the Mall on 20.03.2020. The Appellant further states that he has paid his dues up to March 2020 and holds advance credits towards CAM charges of ₹1,21,533.72 and ₹70,280.04. As regards the order dated 16.01.2020, he submits that it was inadvertently not annexed to the appeal. Liberty had been sought to rely on the documents filed in the connected appeals, and the order was on record as Annexure A-21 to Company Appeal (AT) No. 58/2021. Lastly, relying on the observation of the Ld. NCLT in its order dated 23.09.2025 that the Mall "requires major repairs or re-development", the Appellant contends that redevelopment is the only viable course and that its cost cannot be placed upon individual shop owners.

11. We have heard the rival contentions and perused the material on record. The first and most important issue which arises for consideration is whether the Appellant has the locus to maintain the present appeal against the final order dated 25.06.2026.

12. The Appellant has claimed that its Intervention Application No. 859/2019 remained pending throughout the proceedings and even when the

Impugned Order was passed. This submission, however, is not borne out from the record. The order dated 16.01.2020 passed by the Ld. NCLT specifically dealt with MA No. 859/2019. The applicant(s) in MA No. 859/2019, of whom the Appellant was one, were present and were heard. The application was accordingly disposed of with directions which also provided a course of action to the shop owners in a representative capacity.

13. In the present appeal, at page 15 of the appeal paper book itself, the Appellant states that *"The said intervention application remained pending throughout the proceedings of the Company Petition and even at the time of passing of the Impugned Order."* The record, however, shows otherwise.

14. It is brought to our notice by the respondent that in the intervention application (MA 859/2019) along with other MAs in the main CP 265/2017 an order dated 16.01.2020 was passed by the learned NCLT as follows:

"Heard the administrator. The case of the administrator who has been appointed by this court to oversee the operations of the mall is that an amount of ₹15 per sq. ft. on the carpet area has been fixed by this court as common area maintenance charges. A very few shops are complying with the orders and most of the other shop owners are not complying with the same.

Apart from that the applicant in MA 859, who is present in the court, submits that in the normal course only ₹3 per sq. ft. were charged, whereas the increase in the amount as maintenance charges of ₹15 per sq. ft. is a burden, something which they cannot afford.

It has been submitted by the administrator that several of the shop owners are not complying with the orders of this court. As a result the

administrator is not in a position to make both ends meet and the maintenance of the mall is suffered. This is a very peculiar issue. If only a few shop owners make the payment and others do not pay, there will be a serious deficit. Unless strenuous action is taken against the non-payers, it would be very difficult to maintain the mall.

In view of the same we hereby direct all the shop owners in the mall to forthwith comply with the directions of the court and make the payment of ₹15 per sq. ft. as maintenance charges, as ordered by this court earlier. Subsequently if at all there is any difficulty on their part after making the payment, they may approach this bench in a representative capacity and agitate their grievance. Without making the payment and by putting the administrator into difficulty, no purpose can be served. The asset value will be depleted because of non-maintenance.

We once again reiterate that all the shop owners, whosoever is conducting business or whosoever is holding the premises, shall make the payment without fail. They may approach this bench after making the payment for any clarification in a representative capacity. That means as a group together but not individually.

The administrator is directed to submit the list of defaulters on 30/1/2020. List the matter for further consideration on 30/1/2020.”

15. Perusal of above noted order dated 16.01.2020 shows that the intervention application in MA No. 859/2019 was taken up in the presence of applicant(s) of which Appellant was one. The Appellant was heard and the application was effectively disposed of. The order specifically permitted the shop owners to approach the Ld. NCLT in a representative capacity and to agitate their grievance as a group together and not individually.

16. We also find that the Appellant did not enclose the order dated 16.01.2020 with the present appeal. The Appellant later stated in the written submissions that the order had inadvertently not been filed. The fact remains that the order was material to the question of the Appellant's locus and the manner in which its grievance could be pursued. Its non-disclosure, coupled with the specific assertion that the intervention application was still pending, cannot be treated as a mere procedural omission. The Appellant's pleading was contrary to the record and the material order was not brought to the notice of this Tribunal at the stage of filing of the appeal.

17. The order dated 16.01.2020 also assumes significance for another reason. The Appellant had been given an opportunity to pursue the grievances of the shop owners in a representative capacity. The Appellant did not avail of that opportunity. Instead, it continued to pursue individual proceedings and appeals against interim orders. The record refers to Company Appeal (AT) No. 58 of 2021 and Company Appeal (AT) No. 250 of 2024, filed by the Appellant, which were disposed of vide Order dated 18.09.2026 in view of passing of the final order.

18. In these circumstances, the Appellant cannot now claim an independent and continuing right to intervene in the representative company petition and challenge the final order in its individual capacity. The right granted by the Ld. NCLT was to approach it in a representative capacity. Having failed to avail that remedy, the Appellant cannot repeatedly invoke individual proceedings arising from the same Company Petition and thereby enlarge the scope of the litigation.

19. To further appreciate the web of interventions and appeals filed by the Appellant and other parties, we extract the relevant chronology as set out by the Appellant in the List of Date of the events as noted below:

Date	Particulars
10.05.2013	The Respondent No. 139, Dreams the Mall Company Limited ("the Company") was incorporated under the Companies Act, 1956 for management and maintenance of Dreams the Mall ("the Mall").
June 2017	Company Petition No. 265/MB/2017 ("Company Petition") came to be filed before the Ld. National Company Law Tribunal, Mumbai Bench ("Ld. NCLT"), under Sections 241-242 of the Companies Act, 2013 ("the Act") by the aforementioned group of shop owners/shareholders led by Fiba Shipping Agency/ Mr. Nithin Bangera ("Original Petitioner No. 1") and other shareholders ("Original Petitioners") alleging oppression and mismanagement in the Company.
27.02.2019	The Appellant along with 30 other shop owners filed Intervention Application No. 859/2019 before the Ld. NCLT, seeking impleadment and challenging maintainability of the Company Petition.
19.05.2021	The Ld. NCLT upheld maintainability of the Company Petition, vide order dated 19.05.2021 in M.A. No. 2764/2019 stating that the requirements prescribed under Section 244 of the Act were procedural in nature. The Ld. NCLT also directed continuation of CAM charges at ₹ 15 per sq. ft.
2021	Appellant preferred Company Appeal (AT) No. 58/2021 ("2021 Appeal") before this Hon'ble Tribunal challenging the order dated 19.05.2021.
07.06.2021	This Hon'ble Tribunal passed an order dated 07.06.2021, in 2021 Appeal and stayed operation of the order dated 19.05.2021.

07.07.2021 & 14.07.2021	The Appellant filed C.A. No. 165/2021 before the Ld. NCLT for the removal of Mr. Rahul Sahasrabuddhe as the Administrator.
25.11.2021	This Hon'ble Tribunal, during the proceedings of 2021 Appeal, modified/vacated the interim stay and directed physical verification of the Mall to be conducted by the Administrator.
03.01.2022	Considering the allegations against the Administrator, the Ld. NCLT, allowing another I.A. No. 332/2021 for replacement of the Administrator, replaced Mr. Rahul P. Sahasrabuddhe with Mr. Deepak P. Thakre as the new Administrator ("new Administrator").
20.06.2024	Pending the Company Petition, the Original Petitioners filed Company Application 152/2023 in Ld. NCLT, seeking various directions including directions for carrying out the structural repairs and rehabilitation of the Mall. The Ld. NCLT passed orders dated 20.06.2024 concerning repair, rehabilitation and recovery of maintenance charges.
2024	Appellant preferred Company Appeal (AT) No. 250/2024 ("2024 Appeal") before this Hon'ble Tribunal, challenging the order dated 20.06.2024. Company Appeal (AT) No. 304/ 2024, was also preferred by another shop owner, being Switching Avo Electro Power Limited.
03.10.2024	During proceedings under the 2024 Appeal, this Hon'ble Tribunal passed order dated 03.10.2024 directing payment of maintenance charges of the Mall only up to 31.03.2021, pre fire incident.
02.07.2025	During the proceedings of 2024 Appeal, the Appellant filed Undertaking before this Hon'ble Tribunal regarding credit balance towards CAM charges.
23.09.2025	The Ld. NCLT directed constitution of a new Board.
13.05.2026	Appellant filed I.A. No. 168/ 2026, in the Company Petition, placing subsequent developments and material facts on record which would affect the management of affairs of the Company and the final adjudication of the Company Petition.

15.05.2026	As directed by the Ld. NCLT, the Appellant tendered detailed Written Submissions dated 14.05.2026 to the Ld. NCLT, during the proceedings of the Company Petition. The Ld. NCLT reserved its judgment in the Company Petition.
09.06.2026	The Ld. NCLT dismissed I.A. No. 168/ 2026 without considering that the documents placed on record by the said I.A. were crucial for the adjudication of the Company Petition regarding the recent developments in the administration of the Mall. (Appellants Narration)
25.06.2026	The Ld. NCLT passed the Impugned Order disposing of Company Petition No. 265/MB/2017.

20. Without going into the details of the events, it is important to note that CP No. 265/2017, along with other intervention applications, was finally heard on 15.05.2026 and on that day the matter was reserved for judgment in the Company Petition. Thereafter, around the same time the Appellant filed another intervention application, I.A. No. 168 of 2026, which was taken up by the NCLT Mumbai Bench on 09.06.2026 and a detailed order was passed by it. It is worthwhile to extract this order, which is noted as below:

“ORDER

IA(COMPANIE S.ACT)/168(MB)2026 in CP/265(MB)2017

- 1) Mr. Chaitanya Gadre, Ld. Counsel for the Applicant in IA (Companies Act) 168 of 2026 and Mr. Dhrupad Vaghani, Ld. Counsel for the Petitioner in the Main Company Petition are present.
- 2) The present Interlocutory Application has been filed by the Applicant/Mehul Vinitkumar Vyas, praying for the following reliefs, by seeking leave of this Bench to take on record material facts, documents, and subsequent developments, through the present Interlocutory Application:

- Direct the Administrator, Petitioners, newly constituted Board, Registrar of Companies, and Resolution Professional of HDIL to file affidavits disclosing all material facts, defaults, pending prosecutions, and statutory dues.
 - Take on record the Applicant's documents, complaints, communications, and statutory materials annexed herein.
 - Ensure that any repair, revival, or redevelopment proposal is considered only after statutory compliance, feasibility analysis, and disclosure of defaults.
 - Pass appropriate directions safeguarding transparency, fairness, and stakeholder interests, consistent with pending appellate proceedings before NCLAT.
- 3) It is to be noted that the Company Petition along with other Applications arising out of the present Company Petition was listed on Board on 15.05.2026, on which date, after hearing the Parties extensively for a considerable time and taking on record Parties' Written Submissions, the Matter was Closed for Orders and Orders are pending for pronouncement.
- 4) Filing an Application to place Additional Documents on record after a matter is closed for orders is not maintainable as a matter of right as hearing is concluded in the matter and accepting new material facts would certainly deprive the statutory right of the opposing party to rebut the material, violating principles of natural justice. Further, the applicant cannot seek substantial directions in the petition filed by others.
- 5) Therefore, any fact which is received as Additional documents through this Application cannot be looked into at this stage. Further, new board

has been constituted and it is required to manage the affairs of the Respondent Company in accordance with the law, therefore, the applicant can approach the new management for redress of any grievance it may have or for seeking due adherence to legal mandate.

6) In that view of the matter, the Interlocutory Application bearing IA (COMPANIES. ACT)/168 of 2026, is dismissed and disposed of.

7) Ordered Accordingly.”

21. The above order of the Ld. NCLT is clear. The Company Petition along with the connected applications was heard extensively on 15.05.2026. Written submissions were taken on record and the matter was closed for orders. In such circumstances, the subsequent filing of I.A. No. 168/2026 could not confer upon the Appellant a right to reopen the concluded hearing or to introduce additional material as a matter of right.

22. The Ld. NCLT gave reasons for declining to take the additional documents on record. It recorded that accepting new material facts after the matter had been closed for orders would deprive the opposing parties of an opportunity to rebut such material and would affect the principles of natural justice. It also recorded that the Appellant could not seek substantial directions in a petition filed by others. These reasons cannot be said to be irrelevant or without jurisdiction.

23. The Ld. NCLT had earlier, vide order dated 23.09.2025, directed constitution of the Board as an interim measure. The final Judgment thereafter provides a step-by-step mechanism for redetermination of shareholding, determination of dues, recovery of dues and fixation of future

maintenance. The Appellant's individual objections cannot be examined in isolation from this larger framework.

24. We further note that the Impugned Order is not confined to the Appellant. The directions issued by the Ld. NCLT concern the restructuring of the shareholding and management of Dreams the Mall Company Limited and operate for the benefit and protection of the shareholders and shop owners as a class. The Impugned Order provides a mechanism for redetermination of shareholding, determination of dues, recovery of dues from shareholders according to their entitlement, constitution of the Board and convening of the General Body Meeting. The order therefore cannot be viewed as an order made only against or only for the Appellant.

25. The record further shows that the Company Petition was pending for several years and involved a large number of shareholders and other parties. The Appellant owns two shops in the Mall. No other shop owner has challenged the final Judgment before us. The Company, its Directors, Promoters and Developer were parties before the Ld. NCLT, and none of them has preferred an appeal against the final Judgment. This circumstance is relevant while examining the Appellant's claim that it is entitled to continue the litigation individually in respect of issues concerning the larger body of shareholders.

26. The conduct of the Appellant also has to be considered in the background of the long pendency of the Company Petition and the several interventions and appeals arising from it. The repeated individual

proceedings, despite the earlier liberty to pursue the grievance in a representative capacity, have the effect of multiplying litigation arising from the same Company Petition. The appellate process cannot be permitted to become a means for continuing such individual proceedings when the final order itself provides a mechanism applicable to the shareholders as a whole.

27. We are also conscious that the Company Petition was a long-pending company appeal before the Ld. NCLT. The matter had already been argued at length; written submissions had been taken on record and judgment had been reserved. At that stage, permitting an individual intervenor to place a fresh set of documents and seek substantial directions would reopen the proceedings and prolong the adjudication. The Appellant had already had opportunities to place its grievances before the Ld. NCLT. Therefore, the rejection of I.A. No. 168/2026 at that stage does not furnish a ground to interfere with the final order.

28. Beyond maintainability we have also considered the averments concerning the fire incidents. The Appellant contends that the entire Mall was gutted in the fire. However, the Structural Audit Report dated June 2022, referred to in the record, records that out of the total area of 1,44,736.59 sq. mt., 31,913.72 sq. mt. was affected by fire and 1,12,822.87 sq. mt. remained unaffected. The Report also records that the structure was in repairable condition. Therefore, the submission that the entire Mall was gutted cannot be accepted on the material placed before us.

29. On an overall consideration of the record, we find that the present appeal is not maintainable at the instance of the Appellant in the manner in which it has been filed. The Appellant had already been heard in the intervention application and had been given an opportunity to pursue the grievance in a representative capacity. It did not avail that opportunity. The Appellant also did not disclose the order dated 16.01.2020 in the appeal, despite relying upon the continued pendency of the very same intervention application. So far as the interim measures under Section 242(2) (k) are concerned, the said measures were interim in nature and get subsumed once the final order has been passed and hence do not require our consideration at the appellate stage. The final order is intended to operate for the benefit of all the shareholders and shop owners and is not confined to the Appellant.

30. The subsequent intervention, filed after the Company Petition had been finally heard and reserved for orders, also cannot be used to reopen a long-pending proceeding. The Ld. NCLT was justified in declining to take the additional material on record at that stage, particularly when the other parties would have been entitled to an opportunity to respond to such material. The course adopted by the Appellant has resulted in further litigation arising out of the same Company Petition, despite the earlier opportunity to pursue the grievances in a representative capacity.

31. We, therefore, find no ground to interfere with the Judgment and Final Order dated 25.06.2026. The appeal does not disclose any legally sustainable ground for setting aside or modifying the Impugned Order. The Appellant has failed to establish a right to maintain the present appeal in the manner in

which it has been filed, and the grounds raised by the Appellant do not warrant appellate interference.

Order

32. In view of the above discussion and findings, Company Appeal (AT) No. 342 of 2026 is dismissed.

33. We further find that the non-disclosure of the order dated 16.01.2020, the assertion that the intervention application continued to remain pending, and the repeated individual proceedings despite the liberty granted to approach the Ld. NCLT in a representative capacity are matters which cannot be ignored. Such conduct has contributed to multiplication of litigation and has consumed judicial time.

34. Accordingly, an exemplary cost of ₹5 lakhs is imposed on the Appellant. The said amount shall be deposited in the Prime Minister's National Relief Fund within a period of four weeks from today.

35. All pending applications, if any, stand disposed of.

[Justice Sharad Kumar Sharma]
Member (Judicial)

[Arun Baroka]
Member (Technical)

[Indevar Pandey]
Member (Technical)

New Delhi.
October 06, 2026.

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