NATIONAL COMPANY LAW TRIBUNAL
COURT-V, MUMBAI BENCH

2. IA/1369/2024 C.P. (IB)/1197(MB)2022

IN THE MATTER OF

Samata Nagari Sahakari Patsanstha Maryadit
VS
Souvenir Developers (India) Pvt Ltd

U/s 7 of the Insolvency and Bankruptcy Code, 2016

Order Delivered on 26.11.2026

CORAM:
SH. NILESH SHARMA
MEMBER (J)

SH. CHARANJEET SINGH GULATI
MEMBER (T)

Appearance through VC/Physical/Hybrid Mode:
For the Liquidator: CA IP Udayraj Patwardhan (VC)

For the Respondent:

ORDER

IA/1369/2024: - The above IA/1369/2024 is listed for pronouncement of the order. The same is pronounced in open court, vide a separate order.

Sd/-
NILESH SHARMA
Member (Judicial)
//*Zakir*//

Sd/-
CHARANJEET SINGH GULATI
Member (Technical)

NATIONAL COMPANY LAW TRIBUNAL

MUMBAI BENCH - V

IA (IBC) No.1369 of 2024

IN

CP (IB) No. 1197 of 2022

(Under Section 60 (5) r/w Sections 68 (ii), 70(1), 72 and 74(1) of the Insolvency and Bankruptcy Code, 2016 and Rule 11 of the National Company Law Tribunal Rules, 2016)

Mr. Vinit Gangwal,

(Resolution Professional of Souvenir Developers(India) Private Limited)

Having its address at Office No. 503, Varun Capital, JM Road, Opp. Jungli Maharaj Temple, Bharat Petrol Pump Lane, Near Citiotel, Shivajinagar, Pune-411005

... Applicant

Versus

1. **Kamalakar Sahebrao Patil**

12-Mayur Colony, Deopur, Dhule-424002, Maharashtra, India

2. **Sanjay Chandan Patel**

48-Neharu Housing Society, Near Navrang Water Tank, Deopur,Dhule-424002, Maharashtra, India

3. **Suvarna Keshawrao Salunkhe**

Plot no. 36, Muktai Nagar Colony, Jalgaon, Maharashtra-425111

4. Chaya Keshawrao Salunkhe

Shri Krushna Colony, Chorwad Road, Parola, Jalgaon, Maharashtra-425111

5. Vaishali Hiraman Devare

R/o Tamaswadi, Taluka Parola, District Jalgaon, Maharashtra-425111.

6. Pooja Pandit Sutar

Hemantkhede, Jalgaon, Maharashtra-425111

7. Samata Nagari Sahkari Patsanstha Maryadit, Kopargaon

Samata Marg Khandaknal, Main Road, Kopargaon Dist., Ahmednagar, Pin-423601

...Respondents

IN THE ORIGINAL MATTER OF

Samata Nagari Sahakari Patsanstha Maryadit, Kopargaon

...Operational Creditor

Versus

M/s. Souvenir Developers (India) Private Limited.

... Corporate Debtor

Order Delivered on: 26.11.2026

Coram:

Sh. Nilesh Sharma,
Member (Judicial)

Sh. Charanjeet Singh Gulati
Member (Technical)

Appearances:

For the Applicant: CA Raghunath Sarangapani (VC)

For the Respondent: Adv. Yogesh Kumar, Adv. Arun Longani, Adv. Somya i/b TN Tripathi (R 1 to 6, 7)

ORDER

IA (IBC) No.1369 of 2024

1. The present application has been filed by Mr. Vinit Gangwal, Resolution Professional (**"Applicant"**) of Souvenir Developers (India) Private Limited, under Section 60 (5) read with Sections 68 (ii), 70(1), 72 and 74(1) of the Insolvency and Bankruptcy Code, 2016 and Rule 11 of the National Company Law Tribunal Rules, 2016, seeking:

> *"1. Order the reversal of the transactions of alienation of the property of the Corporate Debtor by the Respondents No 1 and 2 and direct the Registry / Concerned Authority for reversing the entry in the Property Register;*
>
> *2. Estop the Respondent No. 3 to 6 of the property from undertaking any development on the property of the Corporate Debtor unlawfully purchased from the Respondents No 1 and 2 and hold the Respondents No 1 and 2 liable for any such changes made to the detriment of the property of the Corporate Debtor so alienated by them;*
>
> *3. Find that the Respondents No 1 and 2 have wilfully and knowingly attempted to frustrate the process of CIRP and the core principles of the Code;*
>
> *4. Find the Respondents No 1 and 2 guilty of contempt of this Hon'ble Tribunal for acting in complete disregard of to the Admission Order and Order dated 21st November 2023"*

Facts as per the Application, in brief:

2. This application is filed by the Resolution Professional of Souvenir Developers (India) Private Limited ("**Corporate Debtor**"). The respondents are Mr. Kamalakar Sahebrao Patil ("**Respondent No.1**") and Mr. Sanjay Chandan Patel ("**Respondent No.2**"), the suspended directors, and the purchasers of

the properties, Ms. Suvarna Keshawrao Salunkhe ("**Respondent No.3**"), Ms. Chaya Keshawrao Salunkhe ("**Respondent No.4**"), Ms. Vaishali Hiraman Devare ("**Respondent No.5**") and Ms. Pooja Pandit Sutar ("**Respondent No.6**") and the Financial Creditor, Samata Nagari Sahakari Patsanstha Maryadit, Kopargaon ("**Respondent No.7/ Financial Creditor**").

3. The Applicant has through its Additional Affidavit filed on 24.04.2024 submitted that at the hearing dated 01.04.2024, this Tribunal directed the Applicant to add the Financial Creditor, Samata Nagari Sahakari Patsanstha Maryadit, Kopargaon as a necessary party in the present IA. However, the same has not been mentioned in the daily order sheet. Thus, through this Additional Affidavit, the Applicant has placed on record the amended copy of the present application with the limited amendment of adding the Financial Creditor. Further, vide order dated 29.08.2024, this Tribunal deemed it appropriate to issue notice to the Financial Creditor and observed that the Financial Creditor may also file its reply to the present IA.

4. By order dated 01.08.2023 ("**Admission Order**"), this Tribunal admitted the Corporate Insolvency Resolution Process (CIRP) of the Corporate Debtor on a petition by the Respondent No.7, and appointed Ms. Mona Vora as Interim Resolution Professional (IRP). The IRP informed Respondent No.1 and Respondent No.2 by email of the CIRP and the moratorium under Section 14, reproducing the provision, and sought documents. Her representatives visited the registered office and met Respondent No.2, who held its key. The respondents then stopped cooperating despite reminders. On 14.09.2023 and 16.09.2023, they claimed part payment to the Financial Creditor and asked for withdrawal under Section 12A, and also claimed an appeal against the Admission Order with a stay of four weeks, but gave no details when asked.

5. By order dated 21.11.2023 in IA No. 5209 of 2023, this Tribunal directed Respondent No.1 and Respondent No.2 to cooperate. By order dated 22.11.2023 in IA No. 5338 of 2023, the Applicant replaced the IRP as a Resolution Professional. The Applicant's later reminders also went unanswered.

6. While collating the Corporate Debtor's assets, the Applicant found from the land records that Respondent No.1 sold Plots 1, 2 and 9 of GAT No. 154, Village Hemantkhede, Taluka Parola, District Jalgaon ("**said sale transactions**"), after the commencement of CIRP. The Applicant submits that the sale deeds are dated 20.09.2023, 20.09.2023 and 30.10.2023, and the proceeds were allegedly used to pay part of the debt owed to the Financial Creditor.

7. On 08.01.2024, the Applicant asked the Financial Creditor to return the amounts received after commencement of CIRP, and it remitted Rs. 7,15,000/- on 12.01.2024. By email dated 15.01.2024, Respondent No.1 and Respondent No.2 admitted the alienation and shared a ledger showing Rs. 24,00,000/- received by the Financial Creditor from various accounts after commencement. They stated the value of the property sold was Rs. 34,00,000/-, whereas the three sale deeds record a total consideration of only Rs. 7,15,000/-, suggesting possible undervaluation.

8. On 21.01.2024, the security guards appointed by the Applicant reported that persons claiming to be purchasers of Plot 9 sought entry to harvest crops, raising a real apprehension of dispossession. The Applicant has also filed an application for liquidation under Section 33(1), no resolution plan having been received, which is pending before this Tribunal.

9. The Applicant seeks reversal of the alienations and of the entries in the property register, a restraint on R3 to R6 from developing the land, a finding that Respondent No.1 and Respondent No.2 wilfully frustrated the CIRP, and a finding that they are in contempt of the Admission Order and the order dated 21.11.2023.

10. **Submissions of the Applicant**

a) The Applicant submits that Section 68 is attracted. It relies on the definition of "fraud" in Section 447 of the Companies Act, 2013, imported through Section 2(37) of the Code. Respondent No.1 and Respondent No.2 are suspended directors in a position of power. They secretly sold the Corporate Debtor's land after the moratorium, with no intimation to the Applicant, who

now holds the Board's powers. This concealed the sales, injured the Corporate Debtor's prospects of resolution, and benefited them by reducing the debt to the Financial Creditor. That attracts clauses (b) (fraudulent removal of property worth Rs. 10,000 or more) and (e) (fraudulently parting with documents relating to property). Knowledge alone suffices for clauses (a), (c) and (g). The IRP's email, the visit and the Admission Order gave Respondent No.1 and Respondent No.2 notice of the CIRP. They concealed property details and books despite the cooperation order. Each knew of the other's acts and neither disclosed them.

b) The Applicant submits that Section 70(1)(a), (b) and (c) are attracted, as Respondent No.1 and Respondent No.2 did not disclose property details and transactions, and did not deliver property, books and papers. This continues even after the order dated 21.11.2023.

c) The Applicant submits that Section 72 is attracted, as concealing the books and the alienations amounts to material omissions in the statements of affairs. The Applicant discovered both by his own enquiries.

d) The Applicant submits that Section 74(1) is attracted. Respondent No.1 and Respondent No.2 are officers who knowingly and wilfully contravened Section 14(1)(b), which prohibits alienation of the Corporate Debtor's assets, after being informed of the moratorium. The payment of Rs. 24,00,000/- to the Financial Creditor, of which Rs. 7,15,000/- allegedly came after commencement, shows their intent.

e) The Applicant submits that this Tribunal should use its inherent powers under Rule 11 to hold Respondent No.1 and Respondent No.2 in contempt. The first contempt is the alienation in defiance of the Admission Order. The second, continuing contempt is non-compliance with the order dated 21.11.2023, in that no information was furnished and the key retained by Respondent No.2 was used to mislead the IRP.

Reply of Respondent No.1, in brief:

12. This Tribunal vide order dated 01.09.2026 granted last and final opportunity to the Respondent Nos.1 to 7 to file their reply within two weeks, failing which their right to file reply shall stand forfeited. Further vide order dated

23.10.2026, this Tribunal observed that the matter had come up for consideration on 01.09.2026, where the Respondents were given one last and final opportunity to file the reply within two weeks with a self-operative order of right to file reply to stand forfeited in case of failure to filing a reply. Reply has only been received from Respondent nos.1 and 7, however Respondent Nos. 2 to 6 and Respondent No.1 are represented by the same counsel and has been heard.

13. The Respondent No. 1 submits that the Financial Creditor obtained the admission order dated 01.08.2023 in C.P. (IB) No. 1197 of 2022 by suppressing material facts, particularly that the demand notice dated 17.09.2022 reflected overdue dues of only Rs. 7,28,828/-, which was below the then prescribed threshold of Rs. 1 Cr. Respondent No. 1 further submits that the Corporate Debtor had availed a cash credit facility of Rs. 1 crore in 2012, which was regularly renewed and was last renewed on 03.03.2022 for a period of three years, and that the repayment irregularities arose due to financial difficulties in the real estate business.

11. It is further submitted that, on 30.06.2023, the Corporate Debtor sought the Financial Creditor's permission to sell two mortgaged plots and deposit the sale proceeds towards repayment of the loan. The Financial Creditor, vide its communication dated 30.07.2023, granted permission subject to a pre-deposit of Rs. 24 lakh, which was duly deposited on 09.08.2023. Thereafter, the Corporate Debtor sought permission to sell another mortgaged plot, and the Financial Creditor granted such permission subject to specified conditions. Respondent No. 1 submits that the sale transactions were undertaken with the Financial Creditor's knowledge and consent and that the sale proceeds were deposited directly with it. It is contended that, by 23.08.2023, an aggregate amount of Rs. 17.65 lakh had been paid to the Financial Creditor, and further payments of Rs. 2.35 lakh and Rs. 2 lakh were made on 05.09.2023 and 06.09.2023, respectively. According to Respondent No. 1, the total amount of approximately Rs. 22 lakh was deposited towards the Corporate Debtor's loan account, and the entire overdue amount stood cleared by 09.09.2023.

12. Respondent No. 1 further submits that he came to know of the admission order dated 01.08.2023 only upon receiving a copy thereof on 10.08.2023, while the Corporate Debtor was already taking steps, with the Financial Creditor's permission, to clear the outstanding dues through sale of the mortgaged properties. It is contended that the Financial Creditor failed to disclose these material facts before this Tribunal while obtaining the admission order and also failed to issue the requested No Objection Certificate despite the alleged clearance of the overdue amount. Respondent No. 1 states that, vide communication dated 25.09.2023, he requested the IRP to take appropriate steps before this Tribunal for closure of the proceedings and subsequently sought an NOC from the Financial Creditor by email dated 02.11.2023.

13. The Respondent No.1 also submits that the IRP's appointment was based on a registration certificate dated 06.07.2020 and an authorisation in Form B issued by the ICSI Institute of Insolvency Professionals, which, according to Respondent No. 1, was valid only until 29.05.2023, whereas the appointment order was passed on 01.08.2023. Respondent No. 1 accordingly questions the validity of the IRP's appointment. He further relies upon the orders dated 29.07.2024 and 29.08.2024 passed by this Tribunal concerning the release of mortgaged properties during CIRP and denies having violated the moratorium under Section 14 of the Code, contending that the transactions were undertaken pursuant to the Financial Creditor's prior permissions and in accordance with the conditions stipulated by it.

14. In view of the aforesaid submissions, Respondent No. 1 contends that the Financial Creditor had suppressed material facts, that the outstanding dues had been cleared, and that no violation of the provisions of the Code or the orders of this Tribunal had been committed by him. Accordingly, it is submitted that the present Application is devoid of merit and deserves to be dismissed.

Reply of Respondent No.7, in brief:

15. The Respondent No. 7 i.e. the Financial Creditor, submits that the present Application has been filed alleging violation of the moratorium by Respondent

Nos. 1 and 2 on account of alienation of the said Plots, after commencement of CIRP. It is submitted that Respondent No. 7 had issued letters dated 11.08.2023 and 21.09.2023 to the Sub-Registrar, Jalgaon, seeking removal of the lien over the said properties, which had been mortgaged as security for the personal loan availed by the erstwhile promoters, Respondent Nos. 1 and 2.

16. It is contended that the said letters were issued solely at the request of Respondent Nos. 1 and 2, on the basis of the existing mortgage records and assurances furnished by them. Respondent No. 7 submits that it had no role in negotiating, authorising or executing the sale transactions, nor was it aware of any intention to alienate the properties after commencement of CIRP. The issuance of the letters was merely procedural and was neither intended to facilitate any transaction in violation of the moratorium nor to defeat the CIRP.

17. It is further submitted that, subsequent to the execution of the sale deeds dated 23.08.2023 and 27.09.2023, the Applicant called upon Respondent No. 7 to remit Rs.7,15,000/-, being the sale consideration reflected therein, to the Corporate Debtor's bank account, which Respondent No. 7 duly transferred through RTGS on 24.08.2023. Accordingly, Respondent No. 7 denies any involvement in or responsibility for the alleged violation of the moratorium and submits that the present Application may be decided in accordance with law.

Analysis and Findings

18. This Tribunal had on the hearing dated 23.10.2026 observed that:

> *"1. This IA has been field by the RP under Sections 14 and 74 of the IBC initially against 6 Respondents. During the consideration of the matter, directions were given to make the Financial Creditor as the 7th Respondent and reply was also directed to be filed by the Financial Creditor.*
> *2. The matter had come up for our consideration on 01.09.2026, where the Respondents were given one last and final opportunity to file the reply within two weeks with a self-operative order of right to file reply to stand forfeited in case of*

failure to filing a reply. Reply has only been received from Respondent nos.1 and 7, however, Respondent no.2 to 6 and Respondent no.1 are represented by the same counsel and he has been heard.
3. Ld. Counsel for the Applicant as well as counsel for the Respondent no.7 have also been heard."

19. Accordingly, we have heard the Ld. Counsels for the parties and perused the documents available on record.

20. It is the case of the Applicant that the Respondent No.1 and 2 have alienated the properties of the Corporate Debtor after the commencement of the CIRP on 01.08.2023. Therefore, the Respondents have violated section 14 of the Code and accordingly the said sale transactions must be set aside. The Respondent No.1 and 2 having violated section 14(1)(b) of the Code which prohibits alienation of the Corporate Debtor's assets, after being informed of the moratorium, are liable for punishment under section 74 of the Code. Out of the amount of Rs. 24,00,000/- paid to the Financial Creditor from sale proceeds, Rs. 7,15,000/- received after commencement, showing possible undervaluation of assets. Further, the Respondent No.1 & 2 are punishable under section 68, Section 70(1)(a), (b) and (c), Section 72 and Section 74(1) of the Code.

21. Per contra, the Respondent No.1 contends that the sale of the mortgaged plots was undertaken with the Financial Creditor's consent and the outstanding dues stood cleared by 09.09.2023. Respondent No. 1 also questions the validity of the IRP's appointment and denies any violation of the moratorium. Whereas, Respondent No. 7 submits that the letters seeking removal of lien over the subject plots were issued at the request of Respondent Nos. 1 and 2 and that it had no role in or knowledge of the sale transactions. It is further contended that Rs. 7,15,000/-, being the sale consideration, was transferred to the Corporate Debtor's bank account on 24.08.2023, and therefore, Respondent No. 7 denies any involvement in the alleged violation of the moratorium.

22. By order dated 29.07.2024, this Tribunal observed:

> *"On perusal of the documents it is evident that even after the admission of the CD in the CIRP vide order dated 01.08.2023 the Financial Creditor was still in communication with the CD and the land of the CD was released by FC. The Financial Creditor have asked the sub-registrar on 11.08.2023 for releasing the land. This itself is contemptuous on the part of the Financial creditor as in view of the fact that CD was admitted to CIRP on 01.08.2023 and moratorium in terms of Section 14 had commenced against the CD/Respondent. Before issuing any show cause notice to the Financial creditor for this contemptuous act, we grant one last opportunity to the Respondent no. 1 to resolve the issue."*

23. By order dated 29.08.2024, this Tribunal recorded:

> *"The Ld. Counsel for the* ***Respondent No. 1 though at the outset accepts the fact of having alienated the property but his contention is that the approval for the same was granted by the Financial Creditor ... Ld. Counsel for the RP also accepts the stated facts. In view of the fact that the property was released by the Financial Creditor for alienation by Respondent No. 1, we deem it appropriate to issue notice to the Financial Creditor*** *... Let the Financial Creditor explain their conduct that despite the admission into CIRP of the Corporate Debtor how and under what provisions of law were they authorized to release the property for alienation by Respondent No. 1."*

24. On the perusal of the above orders, it is noted that the alienation of the said properties of the Corporate Debtor is admitted by the parties, and the only defence taken by the Respondent No.1 is the Financial Creditor's approval for the same.

25. Now, it is necessary to highlight that Section 13(1)(a) of the Code, which requires a moratorium on admission, and Section 14(1)(b) prohibits:

> *"(b) transferring, encumbering, alienating or disposing of by the corporate debtor any of its assets or any legal right or beneficial interest therein;"*

26. A bare reading of Sections 13(1) and 14 of the Code makes it evident that admission of an application under Section 7, 9 or 10 marks the commencement of insolvency, and statutorily obligates the Adjudicating

Authority to declare a moratorium by the same order admitting the Corporate Debtor into CIRP and appointing the IRP. Section 14(1)(b) further makes clear the legislative intent that, during the moratorium, the Corporate Debtor shall not transfer, encumber, alienate or dispose of its assets or any legal right or beneficial interest therein. These provisions are deliberately framed to keep the assets of the Corporate Debtor intact during the resolution process, thereby facilitating its timely, orderly and efficient completion. Further, under Section 17(1), from the appointment of the IRP, the affairs of the Corporate Debtor vest in the IRP and the Board's powers stand suspended. These provisions keep the assets of the Corporate Debtor intact during the resolution process.

27. Coming to the facts of the present case, the Corporate Debtor was admitted into CIRP on 01.08.2023, and the moratorium commenced the same day. By his own case, Respondent No. 1 learnt of the Admission Order on 10.08.2023, and also admits the said sale transactions being carried out on 23.09.2023 and 27.09.2023 respectively, which explains that even after having the knowledge of the CIRP commencement and moratorium in effect, the Respondent No.1 and 2 carried out the sale transactions which is a clear violation of section 14(1)(b) of the Code.

28. Further, the Respondent No.1 has submitted that the said sale transactions were carried out on Financial Creditor's approval on 30.07.2023. However, we do not accept that the Financial Creditor's approval validates the sales. The moratorium operates by force of statute and of this Tribunal's order, and neither the Financial Creditor nor the suspended directors could waive it. After commencement, the assets of the Corporate Debtor could be dealt with only by the Resolution Professional in accordance with the Code. The permission of the Financial Creditor dated 30.07.2023 pre-dated the admission order and could not survive it, and the later permissions for removal of lien on the properties on 11.08.2023 and 24.08.2023 were given after admission of the Corporate Debtor into CIRP and not in accordance with law.

29. The Respondent No. 7 describes the secured loan as the promoters' personal loan, but Respondent No. 1 pleads that the plots were sold by the Corporate Debtor itself, and both the Respondent No.1 and the Applicant have accepted in their submissions that the property belongs to the Corporate Debtor. No material displaces this. It is noted that the suspended directors had no power to alienate the plots, so the said sale transactions violate Section 14(1)(b).

30. Further, the Respondent No. 1's challenge to the Admission Order, and the plea that the dues were cleared by 09.09.2023, are not open before us, since this Tribunal cannot sit in review of its own order. An admitted CIRP can be brought to an end only in accordance with Section 12A of the Code and the Regulations thereunder, and payment after admission does not terminate it.

31. It is noted that paying the sale proceeds to the Financial Creditor does not cure the violation. Further, it is observed that the sale deeds record a consideration of only Rs. 7,15,000/-, against a value of Rs. 34,00,000/- stated by Respondent Nos. 1 and 2 themselves which suggests certain undervaluation of assets.

32. Moreover, Respondent No. 7/ Financial Creditor was the Petitioner in CP (IB) No. 1197 of 2022 and cannot claim ignorance of the Admission Order. The Respondent No.7 admits writing to the Sub-Registrar on 11.08.2023 and 21.09.2023 for removal of the lien, such action being taken when moratorium is in force, has not been explained. The Respondent No.7's plea that the letters were merely procedural and issued on the promoters' assurances, is not acceptable, and it has not answered the question asked by this Tribunal vide order dated 29.08.2024. We reiterate the observation of 29.07.2024 and disapprove the conduct.

33. Respondent Nos. 3 to 6, though represented, filed no reply, and their right vide order dated 23.10.2026 stood forfeited. It is noted that a purchaser is expected to verify title and the seller's authority, and no material shows that they did so, or that they are bona fide purchasers, particularly given the consideration recorded.

34. Further, Sections 68, 70, 72 and 74(1) (under which the present application has been filed) provide for offences, which Section 236(1) makes triable only by the Special Court. Under Section 236(2), cognizance of offences, can be taken only on a complaint by the Board or the Central Government. In the aforesaid circumstances, it is necessary to refer to the judgment of the Hon'ble NCLAT dated 21.02.2022 in ***Vivek Prakash v. Dinesh Kr. Gupta (Liquidator) and Anr., Comp. App. (AT) (Ins.) No. 169 of 2022***, wherein it was held that:

> *"7. In event requisites, cooperation and information not supplied and any offence is committed within the meaning of Section 70 of the Code,* ***it is true that neither the Adjudicating Authority nor Resolution Professional can initiate the prosecution under Section 70 and the prosecution under Section 70 can be initiated only in manner as provided under Section 236...***
>
> ***....***
>
> ***8. Thus, prosecution under Section 70 has to be on complaint filed by the Board or Central Government or person authorized by the Central Government.*** *The submission of the Learned Counsel for the Appellant that Resolution Professional is not empowered to initiate the prosecution is correct. Learned Counsel for the Resolution-Resolution Professional has however, explained that no prosecution has been initiated under Section 70 by the Resolution Professional and he has only sent the information to the Board and it is for the Board to take appropriate action.* ***We, thus, clarify that any prosecution under Section 70 can be initiated only in accordance with the procedure as provided under Section 236(2) and not by the Resolution Professional****. However, with regard to any other offences including the offences under Indian Penal Code, if any complaint is filed by the Resolution Professional before a Police Station that is separate issue and has no concern with the offences under Section 70 and the order impugned shall have no bearing on such proceedings by a Police Station and they are independent proceedings which has to be considered and decided in accordance with law.*

9. We thus are of the view that subject to clarification as made above, there is no ground to entertain this Appeal. The Appeal is disposed of accordingly."

[Bold for Emphasis]

35. The Hon'ble NCLAT in the above matter has held that neither the Adjudicating Authority nor the RP can initiate such a prosecution, and the RP's role is only to bring the information to the Board. Such prosecution can be initiated only upon a complaint filed before the Special Court in the manner prescribed under Section 236(2), that is, by the Board, the Central Government, or a person authorised by the Central Government. Therefore, we deem it appropriate to direct Registry to forward a copy of this Order to IBBI for needed consideration and action as may be deemed fit, in terms of Sections 68, 70, 72, 74(1) and 236 of the Code against the Respondent No.1, Respondent No.2 and Respondent No.7.

36. The conduct of Respondent Nos. 1 and 2 in alienating the properties after notice of the CIRP is questionable and serious. Thus, we record our disapproval of the said conduct and caution Respondent Nos. 1 and 2. We do not, however, wish to initiate contempt proceedings as sought by the Applicant, since a copy of this Order is already being forwarded to the IBBI for appropriate action, as mentioned at Para No.35 above. Prayer clauses (3) and (4) are accordingly **disposed of**.

37. In view of the facts and circumstances of the case and the discussion hereinabove, we are of the considered opinion that the three sale transactions dated 23.09.2023 and 27.09.2023, in respect of Plots 1, 2 and 9 of GAT No. 154, Village Hemantkhede, Taluka Parola, District Jalgaon, are in violation of Section 14(1)(b) of the Code and are accordingly set aside. The said plots shall stand restored to the assets of the Corporate Debtor. Consequently, Respondent Nos. 3 to 6 are restrained from undertaking any development or creating any third-party rights in respect of the said properties. The amount if any, paid to the corporate Debtor, by the Respondent No.3 to 6, in terms of the applicable regulations, shall be treated as a debt of the Corporate Debtor, in the CIRP/ liquidation proceedings, as the case may be.

38. Respondent Nos. 1 and 2 shall remain liable for any alterations or changes made to the said properties by Respondent Nos. 3 to 6, which are detrimental to the interests of the Corporate Debtor. Accordingly, prayer clauses (1) and (2) are **allowed**.

39. Accordingly, I.A(I.B.C)/1369/2024 is **partially allowed** and **disposed of.**

Sd/-	**Sd/-**
Sh. Nilesh Sharma	**Sh. Charanjeet Singh Gulati**
Member (Judicial)	**Member (Technical)**

Rashmi, LRA.