

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD**R/SPECIAL CIVIL APPLICATION NO. 10615 of 2025****With****R/SPECIAL CIVIL APPLICATION NO. 10665 of 2025**

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PARTHIL KAMLESH GONDALIA

Versus

IDBI TRUSTEESHIP SERVICES LTD. & ANR.

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Appearance:

ARJUN R SHETH(7589) for the Petitioner(s) No. 1

MR DHAVAL VYAS, SENIOR ADVOCATE with MR NIHAR THAKKAR FOR
THE RESPONDENT

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CORAM:HONOURABLE MR. JUSTICE NIRAL R. MEHTA**Date : 12/08/2025****ORAL ORDER**

1. By way of this petition under Article 226 of the Constitution of India, the petitioner has approached this Court for the following reliefs :

- “a. Pass appropriate order setting aside and quashing the impugned order dt. 14.05.2025 passed by NCLT in CP (IB) no. 189 of 2025, and order dt. 25.06.2025 passed by NCLT in IA 757 of 2025 in CP (IB) No. 189 of 2025 (Annexure A);*
- b. Pending hearing and disposal of the present petition, this Hon'ble Court be pleased to:*
- i. Pass appropriate order staying the proceedings of CP (IB) no. 189 of 2025 before NCLT, Ahmedabad;*
- ii. Pass appropriate order staying the operation and implementation of the impugned dt. 14.05.2025 passed by NCLT in CP (IB) no. 189 of 2025, and order dt.*

25.06.2025 passed by NCLT in IA 757 of 2025 in CP (IB) No. 188 of 2025 (Annexure A);

- c. Pass ex parte ad interim / interim orders in terms of prayer clause 20 (b) hereinabove; and/or*
- d. Pass any other order(s) that this Hon'ble Court deems fit."*

2. Similar prayers are made for in the second petition i.e. Special Civil Application No.10665 of 2025.

3. Heard Mr.Arjun Sheth learned advocate for the petitioner and Mr.D.D. Vyas learned Senior Advocate with Mr.Nihar Thakkar learned advocate for the respondent No.1.

4. It is the contention of Mr.Arjun Sheth learned advocate for the petitioner that appointment of Resolution Professional is not in consonance with the provision of Section 97(3) of the Insolvency and Bankruptcy Code, 2016 (for short 'IB Code'). It is further contended that in view of provision of Section 97(3) of the IB Code, an appointment of Resolution Professional can only be done by the Insolvency and Bankruptcy Board of India (for short 'the Board') in a case where the creditor himself has filed a petition under Section 95 of the IB Code.

4.1 Mr.Sheth learned advocate further contended that in the present case, the respondent No.1 is the creditor who approached the NCLT, Ahmedabad under Section 95 of the IB Code with a recommendation of name of the Resolution Professional i.e. respondent No.2 herein. According to

Mr.Sheth, in view of the provision of Section 97(3) of the IB Code, the Tribunal ought to have sent the name so recommended by the petitioner to the Board for its nomination and/or approval. Mr.Sheth submitted that the Tribunal, however, without sending the name of Resolution Professional to the Board, straightway, vide order dated 14.5.2025, appointed respondent No.2 in respect of the petitioner - personal guarantor.

5. *Per contra*, Mr.Dhaval Vyas learned Senior Advocate assisted by Mr.Nihar Thakkar learned advocate for the respondent No.1, on instructions, requested this Court not to go further into the merits of the case and remand the proceedings to the NCLT, Ahmedabad by quashing and setting aside the order dated 14.5.2025, whereby the Resolution Professional has been appointed.

6. In view of the aforesaid, this Court, without further going into the merits of the case, in view of the statement being made Mr.Dhaval Vyas learned Senior Advocate, quashed and set aside the impugned order dated 14.5.2025 and remanded the proceedings back to the NCLT, Ahmedabad

7. The NCLT, Ahmedabad shall take up the proceedings from the stage of Section 97(3) of the IB Code, within a period of one week from today.

8. In view of the aforesaid, the present petitions stand disposed of, with no order as to costs.

9. All the rights and contentions of the respective parties are kept open.

V.J. SATWARA

(NIRAL R. MEHTA,J)