

IBC DOSSIER

A Bulletin on Landmark Judgements under IBC, 2016



LANDMARK REALTY VS. SIROYA DEVELOPERS PVT. LTD. [COMPANY APPEAL (AT) (INSOLVENCY) NO. 25 OF 2020]

Brief Facts

The Appellant (Landmark Realty) filed an application under Section 9 of IBC, 2016 which was rejected by the NCLT on the ground of pre-existence of dispute i.e. the Appellant has already filed the civil suit for recovery of the money against the Corporate Debtor (Siroya Developers Pvt. Ltd.) before Bombay City Civil Court at Dindoshi, Mumbai which was pending for disposal as on the date of filing application under Section 9 of IBC, 2016. Aggrieved by the decision of NCLT, Landmark Realty preferred an appeal before Hon'ble NCLAT.

Decision

Hon'ble NCLAT held that the corporate insolvency resolution process is not a litigation or money suit or recovery proceeding. NCLAT referred to the decision in the matter of Binani Industries Limited vs. Bank of Baroda & Anr. Company Appeal (AT) (Insolvency) No. 82 of 2018 and held that as admittedly money suit has been filed by the Appellant against the Corporate Debtor prior to the Demand Notice issued under Section 8(1) of IBC, 2016 dated 19th January, 2019 and is pending, therefore Adjudicating Authority has rightly rejected the application under Section 9 of IBC, 2016.

Link to the Order

<https://ibbi.gov.in/uploads/order/29882afd08615b177b3c0eeaaa16f401.pdf>



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