The liquidator cannot proceed to auction any property unless he has cogent evidences that MOU, Allotment Letter and Possession Letter are ingenuine and are subterfuge created to defeat the ownership entitlement of corporate debtor

The **Mumbai Bench of the National Company Law Tribunal (NCLT)** in the case of **Bank of Baroda vs Sanghvi Land Developers [IVN. P. (I.B.C)/186/MB/2025] dated April 07, 2026**, has held that the liquidator cannot proceed to auction any property unless he has cogent evidences that MOU, Allotment Letter and Possession Letter are ingenuine and are subterfuge created to defeat the ownership entitlement of corporate debtor. It clarified that the powers of the Insolvency Professional under Section 18 and Section 25 of the Code, and of the Liquidator under Section 35, extend only to assets owned by the Corporate Debtor. The Code does not empower the RP/Liquidator to take control of assets belonging to third parties or deal with the rights of third parties in assets even if existing in name of the corporate debtor.

The Tribunal observed that the Society's maintenance claim and records in the name of the Corporate Debtor were not conclusive evidence that the property belonged to the Corporate Debtor. While the Society may levy dues from the recorded owner, mere recording in the Society's records cannot conclusively determine ownership, especially where the Applicant's rights flowed from the registered Development Agreement and were further supported by the MOU, Allotment Letter and Possession Letter, the authenticity of which had not been disputed by the Liquidator.

The Tribunal specifically observed that the Liquidator had made no inquiry from the signatory of the MOU, Allotment Letter and Possession Letter as to whether those documents were validly executed. It further noted that even in the SCC meeting dated October 06, 2025, the Liquidator had framed the issue by acknowledging the existence of an MOU under which SLDPL acknowledged financial liability to Manoj Jahagirdar and allotted Shop No. 004A in settlement thereof, though legal ownership had not yet been transferred.

The Tribunal held that the Liquidator could not proceed to auction the said property unless he had cogent evidence that the MOU, Allotment Letter and Possession Letter were ingenuine and were a subterfuge created to defeat the ownership entitlement of the Corporate Debtor. It found that the Liquidator had placed no cogent material on record to doubt the genuineness of those documents, and that his case rested only on levy of maintenance fees by the Society from the Corporate Debtor and the absence of a registered conveyance, although the Applicant's entitlement was admittedly flowing from the registered Development Agreement.

The Tribunal observed that, in the facts and circumstances, the Liquidator could not include Shop No. 004A in the liquidation estate unless the MOU, Allotment Letter and Possession Letter were found to be ingenuine. It reiterated that the powers of the Insolvency Professional under Sections 18 and 25 of the Code, and of the Liquidator under Section 35, extend only to assets owned by the Corporate Debtor, and that the Code does not empower the RP/Liquidator to take control of assets belonging to third parties or deal with third-party rights in assets even if such assets stand in the name of the Corporate Debtor.

At the same time, the Tribunal clarified that it was not inclined to conclusively declare the Applicant's ownership over the premises. It considered that the ends of justice would be met by protecting the possession of the Applicant, subject to final adjudication by a competent forum, and therefore directed the Liquidator to refrain from auctioning Shop No. 004A as property of the Corporate Debtor at present, while granting liberty to challenge the Applicant's claim if cogent evidence was found.