

Santosh

IN THE HIGH COURT OF BOMBAY AT GOA

WRIT PETITION NO.3 OF 2019

Parole Hotels Pvt. Ltd. Petitioner.
Versus
The Greater Bombay Co-operative
Bank Ltd., Respondent.

Mr. Ulhas K. Tari, Advocate for the Petitioner.

Mr. Pravin Faldessai, Advocate for the Respondents.

***Coram : M.S. Sonak &
Prithviraj K. Chavan, JJ.***

Date : 14 January 2019.

P.C.:

Heard Mr. Tari for the Petitioner and Mr. Faldessai for the Respondent.

2. The Petitioner seeks the following substantive reliefs in this Petition:

“(a) This Hon'ble Court be pleased to call the records and proceedings before the National Company Law Tribunal Mumbai Bench of case no.CP(IB)-1668/I&BP/MB/2018 and decide the legality, proprietary and correctness of the said proceedings and quash and set aside the same.

(b) This Hon'ble Court be pleased to call the records and proceedings before the National Company Law Tribunal Mumbai Bench of case no.CP(IB)-

1668/I&BP/MB/2018 and decide the legality, proprietary and correctness of the said proceedings and quash and set aside the same.”

3. The record indicates that the Respondent has initiated proceedings under the Insolvency and Bankruptcy Code 2016 (said Code). Admittedly, the proceedings are pending before the National Company Law Tribunal (NCLT) at Mumbai.

4. Mr. Tari, the learned Counsel for the Petitioner submits that no such proceedings could have been initiated, without notice to the Petitioner. On this ground, he submits that the entire proceedings before the NCLT are required to be quashed and set aside, at the very outset. He submits that as against initiation of such proceedings, the Petitioner has no remedy under the said Code and, therefore, writ jurisdiction can be invoked in such circumstances.

5. According to us, this Petition is quite misconceived. The proceedings have just been initiated. In case the Petitioner has any grievance as regards such proceedings, it is always open to the Petitioner to take out appropriate proceedings before the NCLT, including proceedings objecting to the jurisdiction of the NCLT. Further, if the NCLT makes any order in the matter, then, Section 61 of the said Code provides for an appeal to the National Company

Law Appellate Tribunal.

6. Taking into consideration the aforesaid position and leaving the Petitioner's remedy before the NCLT intact, this Petition is dismissed. It is, however, made clear that this Court has not adjudicated on the merits of the matter.

7. The Petition is, therefore, dismissed. There shall be no order as to costs.

(Prithviraj K. Chavan, J.)

(M.S. Sonak, J.)