

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**Writ Petition (C) No. 699 of 2018**

1. M/s Jai Balaji Industries Limited A Company Incorporated Under The Companies Act, 1956 Having Its Registered Office At 5, Bentick Street (West Bengal) And Works At Borai Industrial Growth Centre, Village And Post Office Rasmada, District Durg Chhattisgarh. Through Its Share Holder, Factory Manager And Authorized Signatory, Mr. Sandeep Nair, S/o Shree K.N. Nair, Aged About 48 Years, R/o Borai Industrial Growth Centre, Village And P.O. Rasmada, District Durg Chhattisgarh.
2. Mr. Sandeep Nair Share Holder And Working For Gain At Jai Balaji Industries Ltd., Resident of Borai Industrial Growth Centre, Village And P.O. Rasmada District Durg Chhattisgarh.

---- Petitioners**Versus**

1. The Reserve Bank of India A Body Corporate Formed And Constituted Under The Reserve Bank of India Act, 1934 Having Its Office At NS Road, Kolkata - 700001.
2. The State Bank of India, A Body Corporate Formed And Constituted Under The State Bank of India Act, 1955, Having Its Registered Office At State Bank Bhavan Corporate Centre, Madame Cama Road, Mumbai Maharashtra 400021 And Inter Alia, Carrying On Business Through Its Stressed Assets Management Branch, Mumbai Having Its Office At Greater Mumbai, Arcade, 2nd Floor, World Trade Center, Cuffe Parade, Mumbai - 400005 And Also At Nagaland House, 8th Floor 11 And 13 Shakespeare Sarani, Kolkata - 700071
3. Edelweiss Asset Reconstruction Company Limited. A Company Registered Under Section 3 of The Securitization And Reconstruction of Financial Assets And Enforcement of Security Interest Act, 2002 And Also Registered With The Reserve Bank of India As An Asset Reconstruction Company Having Its Registered office At Edelweiss House, CST Road, Kalina Mumbai - 400098

---- Respondents

For Petitioners	: None
For Respondent No.1	: Shri Sourabh Sharma, Advocate.
For Respondent No.2	: Shri P.R. Patankar, Advocate.
For Respondent No.3	: Shri Manoj Paranjpe, Advocate.

Hon'ble Shri P. R. Ramachandra Menon, Chief Justice

Hon'ble Shri Parth Prateem Sahu, Judge

Order on Board

P.R. Ramachandra Menon, Chief Justice

22.01.2020

1. This writ petition has been filed with the following prayers :

“a) Declaration that the Reserve Bank of India Communication dated 28th August, 2017 being **Annexure P-7** hereof does not prohibit finalization and implementation of a viable resolution plan with respect to the petitioner's account, post 13th December, 2017;

b) A writ of or in the nature of mandamus commanding the respondent no. 2 to act in consonance with and not in derogation of the consensus as reached amongst all the bankers at the Joint Meetings held on 9th September 2017, 21st September 2017, 23rd October 2017 and 19th December 2017 with regard to sale of their security interest and debts to the respondent no.3 or any other Asset Reconstruction Company.

c) A writ of or in the nature of Mandamus commanding the respondent no.2 not to proceed any further with the application filed against the petitioner under Section 7 of the Insolvency and Bankruptcy Code, before the National Company Law Tribunal,

Kolkata being C.P. (IB) No. 767/KB/2017;

d) A writ of or in the nature of Mandamus commanding the respondent No.2, its men, servants, agents or assigns to grant the petitioners an adequate opportunity of hearing at the time of considering the petitioner's case in accordance with the respondent no.1 Guidelines dated 12/02/2018.

e) Declaration that the respondent no.2 has illegally instituted the proceedings being C.P. (IB) No. 767/KB/2017 before the learned National Company Law Tribunal, Kolkata;

f) A writ of or in the nature of certiorari quashing and setting aside the impugned order dated 11/01/2018, 01/02/2018 and 21/02/2018 passed by the National Company Law Tribunal Kolkata Bench, Kolkata in C.P. No:- 767/KB/2017 and also for quashing complete proceedings pending before the National Company Law Tribunal Kolkata Bench, Kolkata and which has been registered as C.P. No:- 767/KB/2017 as the same is illegal, without jurisdiction, arbitrary, not maintainable, premature and is based on a wrong appreciation of facts and the same being in total contravention to the provisions of the binding circular of the respondent no. 1 and the law.

g) Direction upon the respondent no.2, its men, servants, agents or assigns not to take any coercive measures against the petitioner till the time its revised proposal for settlement dated 12th March, 2018;

h) Injunction restraining the respondent no.2, their men, agents, servants, assigns from proceeding with their application filed against the petitioner under

Section 9 of the Insolvency and Bankruptcy Code, 2016 before the National Company Law Tribunal, Kolkata Bench, Being C.P. (IB) No. 767/KB/2017 in any manner whatsoever;

I) Such further and/or other order or orders be passed, direction or directions be given as Your Lordship may deem fit and proper.”

2. When the matter came up for consideration before this Court on the last occasion i.e. on 21.01.2020, there was no representation on behalf of the Petitioners.
3. It was brought to the notice of this Court by the learned counsel for the SBI that the matter had virtually become infructuous; insofar as the challenge raised in this writ petition is in respect of an order passed by the NCLT; wherein a conditional order was passed by this Court on 01.05.2018 directing to deposit a sum of Rs.100 Crores in two installments of Rs.50 Crores each on or before the 25th of May 2018 and 14th of June 2018, but no compliance has been made in this regard. We noted in the said circumstance that the Petitioners would have lost interest in the cause of action. However, we decided to give one more chance and the case was ordered to be listed today.
4. Same is the position today as well. There is nobody to represent the Petitioners. The writ petition stands dismissed for non-prosecution.

Sd/-

(P.R. Ramachandra Menon)
Chief Justice

Sd/-

(Parth Prateem Sahu)
Judge