

High Court for the State of Telangana

**THE HONOURABLE THE CHIEF JUSTICE
SRI RAGHVENDRA SINGH CHAUHAN
AND
THE HON'BLE SRI JUSTICE A.ABHISHEK REDDY**

Writ Petition No.21997 of 2019

Date: 24.02.2020

Between:

B.V.Satya Sai Prasad,

... Petitioner

... And

The National Company Law Tribunal,
Hyderabad Bench,
At Nagole, Hyderabad, rep. by its
Registrar and two others

... Respondents

Counsel for the petitioner : Mr. A.Sudharshan Reddy,
learned senior counsel
for Mr.Sarang J. Afzalpurkar

Counsel for the respondent No.1 : Assistant Solicitor General

The Court made the following:

ORDER: *(Per the Hon'ble the Chief Justice Sri Raghvendra Singh Chauhan)*

The petitioner is aggrieved by the order dated 20.08.2019, in CP(IB) No.154/7/HDB/2019, passed by the National Company Law Tribunal, Hyderabad Bench, whereby the learned Tribunal has initiated the Corporate Insolvency Resolution Process, and has appointed one Mr. Raghu Babu Gunturu as the Interim Resolution Professional (IRP).

2. The learned counsel for the respondents has raised a preliminary objection with regard to the maintainability of the present petition. According to him, under Sections 32 and 61 of the Insolvency and Bankruptcy Code, the impugned order is an appealable one. Therefore, the appeal should have been filed before the National Company Law Appellate Tribunal. Hence, the present petition is not maintainable before this Court.

3. On the other hand, Mr. A. Sudharshan Reddy, the learned Senior Counsel, submits that the petitioner entered into One Time Settlement (OTS) with the respondent No.2, the Oriental Bank of Commerce. However, in two writ petitions viz., W.P.Nos.9454 & 10219 of 2016, the said OTS scheme was challenged before the combined High Court of Andhra Pradesh and Telangana. The OTS scheme was stayed by the combined High Court of Andhra Pradesh and Telangana. Subsequently, those writ petitions have been transferred to the Hon'ble High Court of Andhra Pradesh. Since the petitioner is aggrieved by the order dated 20.08.2019, he has filed the present writ petition.

4. The position being taken by the learned Senior Counsel is highly misplaced, for the following reasons:

Firstly, under Section 61 of the Insolvency and Bankruptcy Code, an alternative remedy of filing an appeal before the National Company Law Appellate Tribunal is provided to the petitioner;

Secondly, admittedly, both the writ petitions filed before the combined High Court of Andhra Pradesh and Telangana have been transferred to the Hon'ble High Court of Andhra Pradesh. Therefore, those two writ petitions are no longer pending before this Court. Moreover, this Court does not have the power to call for the files from the Hon'ble High Court of Andhra Pradesh. But, nonetheless, the judicial process cannot be scuttled ostensibly on the ground that once upon a time the two writ petitions were filed before the combined High Court of Andhra Pradesh and Telangana. Hence, the High Court of Telangana should hear the present writ petition.

5. For the reasons stated above, this Court finds that this writ petition is not maintainable before this Court. Hence, the writ petition is hereby dismissed.

However, in case the petitioner were to approach the National Company Law Appellate Tribunal, the petitioner would be free to raise all his contentions before the learned Tribunal.

There shall be no order as to costs.

Miscellaneous petitions pending, if any, shall stand closed.

(RAGHVENDRA SINGH CHAUHAN, CJ)

(A.ABHISHEK REDDY, J)

24th February, 2020
Lrkm