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**WPA 10679 of 2021
(CAN 1 of 2021)
(Through Video Conference)**

**Hiranmaye Energy Limited and another
Versus
West Bengal Electricity Regulatory
Commission and others**

**Mr. S.N. Mookherjee, Sr. Adv.,
Mr. Ratnanko Banerjee, Sr. Adv.,
Mr. Sounak Mitra,
Mr. Amitava Mitra,
Ms. Sayani Bhattacharya
....for the petitioners**

**Mr. Ranjan Bachawat, Sr. Adv.
Mr. S. Mukherji,
Mr. Indradeep Bose.
....for the applicant (CAN 1 of 2021)**

**Mr. Sudipto Sarkar, Sr. Adv.,
Mr. Saurav Panda,
Ms. Suhani Dwivedi,
Mr. Zeeshan Khan,
Ms. Trisha Mukherjee,
Mr. Deepanjan Dutta Roy,
Ms. Aishani Das
....for the respondent nos. 3 & 4.**

The writ petitioner no. 1 is engaged in the business of generation of power. It supplies the generated power to the WBSEDCL. For the purpose of its business, the writ petitioner no. 1 obtained loans and finance from the Power Finance Corporation Limited and REC Limited being respondent nos. 3 and 4 respectively. The said credit facilities were continuing since 2012. Outstanding dues of Rs.3427.01 Crores each towards the respondent no. 4 about

Rs.3427 Crores towards respondent nos. 3 and 4 became due and payable by the end of the year 2020.

At the request of the petitioner no. 1, the respondent Nos. 3 and 4 agreed to a restructuring of the dues of the petitioner no.1. The restructuring was, however, conditional. The conditions inter alia on:-

- a) The cutoff date of the Restructuring proposal was 30.09.2021
- b) A pass through in fuel charges must be within a range of 20 paisa/kwh of the variable cost of the last 2 months as on 28th February, 2021. Such tariff would have to be approved by the WBERC-respondent no.1.
- c) The initial Debt Service Reserve Account (DSRA) was required to be maintained equivalent to the next succeeding month.
- d) A priority debt of 83 crores was also required to be made available by the petitioner prior to implementation of resolution plan.
- e) Working capital of about 125 crores was also to be made available by the petitioner.

f) A regular DSRA to meet 2 months of existing debt of rescheduled loans was also required to be maintained. Upon fulfillment of the said conditions the restructuring plan was to take effect from 19th February, 2021.

There were a large number of other conditions which the petitioner no. 1 was required to comply with.

The said restructuring of debt was proposed in terms of the Reserve Bank of India (Prudential Framework for Resolution of Stressed Assets) Directions 2019. The principal object and purpose of such Directions was to ensure early identification of Stressed Assets and ensuring a time bound resolution thereof.

It transpires that the tariff order was not approved by the WBERC until 31st May, 2021. The validity of the restructuring proposal was extended from time to time. Several meetings were held between the parties inter alia on 17.02.2021. However, on 16th June, 2021 the respondent nos. 3 and 4 instituted proceedings under Section 7 of the Insolvency and Bankruptcy Code. A debt due of about Rs. 2,183 crores was claimed against the petitioner.

Mr. S. N. Mookherjee, learned Senior Counsel appearing for the writ petitioners would argue before this Court that the actions of the respondent nos. 3 and 4 are unfair, arbitrary and illegal for the following reasons:-

- a) The cancellation of the restructuring plan was never communicated formally to the petitioner.
- b) A formal recall notice of the loans and advances was never issued by the respondent nos. 3 and 4.
- c) The restructuring plan could not have been cancelled or withdrawn by the respondent nos. 3 and 4 since the delay in issuance of tariff plan could not be attributed to the petitioner.
- d) Even otherwise the respondent no. 1/WBERC could not have issued the tariff plan in view of the model code of conduct having kicked in from 21st February, 2021 until 02.05.2021 in view of the Assembly Elections held in the State.

On being questioned about the maintainability of the writ petition it is submitted that the respondent nos. 3 and 4

are other authorities under Article 12 of the Constitution and hence acted arbitrarily and unfairly in cancelling the restructuring proposal and hence the same can be agitated under Article 226 of the Constitution. The said argument cannot be raised in a proceeding under Section 7 of the Insolvency and Bankruptcy Code.

In support of his argument Mr. S. N. Mookherjee relied on the decisions of the Supreme Court in the case of **ABL International Ltd. and another VS. Export Credit Guarantee Corporation of India Ltd. and others** reported in **(2004) 3 SCC 553**; the case of **State of UP Versus Sudhir Kumar Singh and others** reported in **2020 SCC Online SC 847** and **Unitech Limited and others Vs. Telangana State Industrial Infrastructure Corporation (TSIIC) and others** reported in **2021 SCC Online SC 99** to support his argument that even in the area of private contracts the actions of the State can be questioned by a writ court.

In the **Sudhir Kumar Singh decision (supra)** it was held as follows:-

“23. It may be added that every case in which a citizen/person knocks at the doors of the writ court for breach of his or its fundamental rights is a matter which contains a “public law element”, as opposed to a case which is concerned only with

breach of contract and damages flowing therefrom. Whenever a plea of breach of natural justice is made against the State, the said plea, if found sustainable, sounds in constitutional law as arbitrary State action, which attracts the provisions of Article 14 of the Constitution of India - see *Nawabkhan Abbaskhan v. State of Gujarat* (1974) 2 SCC 121 at paragraph 7. The present case is, therefore, a case which involves a “public law element” in that the petitioner (Respondent No. 1 before us) who knocked at the doors of the writ court alleged breach of the *audi alteram partem* rule, as the entire proceedings leading to cancellation of the tender, together with the cancellation itself, were done on an *ex parte* appraisal of the facts behind his back.”

In **Unitech Ltd. (supra)** it was held as

follows:-

“38. Much of the ground which was sought to be canvassed in the course of the pleadings is now subsumed in the submissions which have been urged before this Court on behalf of the State of Telangana and TSIIC. As we have noted earlier, during the course of the hearing, learned Senior Counsel appearing on behalf of the State of Telangana and TSIIC informed the Court that the entitlement of Unitech to seek a refund is not questioned nor is the availability of the land for carrying out the project being placed in issue. Learned Senior Counsel also did not agitate the ground that a remedy for the recovery of moneys arising out a contractual matter cannot be availed of under Article 226 of the Constitution. However, to clear the ground, it is necessary to postulate that recourse to the jurisdiction under Article 226 of the Constitution is not excluded altogether in a contractual matter. A public law remedy is available for enforcing legal rights subject to well-settled parameters.

40. This exposition has been followed by this Court, and has been adopted by three-judge Bench decisions of this Court in *State of UP v. Sudhir Kumar*⁹ and *Popatrao Vynkatrao Patil v. State of Maharashtra*¹⁰. The decision in *ABL International*, cautions that the plenary power under Article 226 must be used with circumspection when other remedies have been provided by the contract. But as a statement of principle, the jurisdiction under Article 226 is not excluded in contractual matters. Article 23.1 of the Development Agreement in the present case mandates the parties to resolve their disputes through an arbitration. However, the presence of an arbitration clause within a contract between a state instrumentality and a private party has not acted as an absolute bar to availing remedies under Article 226.¹¹ If the state instrumentality violates its constitutional

mandate under Article 14 to act fairly and reasonably, relief under the plenary powers of the Article 226 of the Constitution would lie. This principle was recognized in *ABL International*:

“28. However, while entertaining an objection as to the maintainability of a writ petition under Article 226 of the Constitution of India, the court should bear in mind the fact that the power to issue prerogative writs under Article 226 of the Constitution is plenary in nature and is not limited by any other provisions of the Constitution. The High Court having regard to the facts of the case, has a discretion to entertain or not to entertain a writ petition. The Court has imposed upon itself certain restrictions in the exercise of this power. (See *Whirlpool Corpn. v. Registrar of Trade Marks* [(1998) 8 SCC 1].) **And this plenary right of the High Court to issue a prerogative writ will not normally be exercised by the Court to the exclusion of other available remedies unless such action of the State or its instrumentality is arbitrary and unreasonable so as to violate the constitutional mandate of Article 14 or for other valid and legitimate reasons, for which the Court thinks it necessary to exercise the said jurisdiction.**”

(emphasis supplied)

Mr. Mookherjee has taken great pains to rely upon various paragraphs of the decision of the Supreme Court in **Joshi Technologies International INC. Versus Union of India and others** reported in **(2015) 7 SCC 728** to demonstrate that a writ court under Article 226 of the Constitution of India is not prevented from exercising jurisdiction against the State even in an area which is purely contractual in nature.

Mr. Ranjan Bachawat, learned Senior Counsel appearing for the applicant in CAN 1 of 2021 Bhaskar Silicon Pvt. Ltd. supports the

case of the writ petitioner calling for interference by this court arguing that the actions of the respondent nos. 3 and 4 would also adversely affect the business and existence of his client. He has applied by way of CAN 1 of 2021 for being impleaded as party respondent. Such application is allowed and he has been heard.

Mr. Sudipto Sarkar, learned Senior Advocate appearing for the respondent nos. 3 and 4 would submit that the actions of his client are purely in the realm of a private Loan agreement and have no public law element. It is next argued that the petitioners participated in a meeting of the consortium lenders held on 17.02.2021 online in respect of the development and steps taken and discussed the steps taken by the parties towards fulfillment of the condition precedent of the restructuring proposal. The failure of the respondents was duly noted in such minutes and there was no need for any formal notice to recall the loans and advances or to cancel the restructuring proposal. It is further submitted that the authorities under the Insolvency and Bankruptcy Code have sufficient powers to address the concerns of the writ petitioners against his clients. He relies upon decisions of

the Hon'ble Supreme Court of India in the case of ***A. Navinchandra Steels Private Limited – Vs. – SREI Equipment Finance Limited & Ors.*** reported in ***2021 SCC OnLine SC 149*** and in the case of ***Babulal Vardharji Gurjar – Vs. – Veer Gurjar Aluminum Industries Private Limited & Anr.*** reported in ***(2020) 15 Supreme Court Cases 1*** respectively. Mr. Sarkar sums up his argument by saying that while it may be true that the writ court's jurisdiction to interfere with the State's action in contractual matters has not been ousted, this is not a fit case for this Court to exercise jurisdiction under Article 226 against his clients.

The writ petitioner no.1 was already in dire financial straits to the tune of about 3427.01 Crores each to the respondent nos. 3 and 4 as on the cutoff date for which it required a restructuring of its debt. The actions of the respondent nos.3 and 4 in the instant case are purely contractual in nature and were guided specifically by the terms and conditions of the restructuring proposal. In matters of this nature, the respondent nos.3 and 4 are guided by and must act strictly on commercial considerations of recovery of their financial dues. The respondents appear to have given

substantial leverage in time to the writ petitioner no.1 to comply with the terms and conditions of the restructuring proposal which the petitioner has failed.

It is however true that the issuance and passing of the tariff order was not within the control of the writ petitioner no.1. The same was required to have been done by the respondent no.1. The said tariff order was issued albeit with some discrepancies only on 31.05.2021. The writ petitioners have already filed an application for review of the said order in view of the discrepancies thereat. The compliance and actual tariff at which the electricity would be sold by the writ petitioner no.1 to the WBSSEDCL was not clear even in the middle of June, 2021 or even as on date. However, to expect a Public Financial Corporation, to indefinitely wait for compliance and fulfillment of all terms by the writ petitioners would seriously harm its own financial health. One must bear in mind that the said respondents are also required to fund and finance a large number of other electricity generating companies both public and private. There was therefore no arbitrary or unfair action on the part of the respondent nos. 3 & 4.

The relations between the petitioner and respondent nos. 3 and 4 were purely contractual and no part of the action of the respondents had any public law element in canceling the restructuring proposal.

The writ petitioner no.1 did not fulfil the conditions stipulated in the restructuring proposal like providing for DSRA and a margin of 83 Crores, as already recorded in the consortium meeting dated 17.02.2021. The respondent nos. 3 and 4 has not acted arbitrarily or unfairly.

It is indeed true that every State Authority or instrumentality is required to act in fairness even in a purely private contract but it is equally true that the actions of the respondent nos.3 and 4 are also required to factor in commercial considerations. The institution of proceeding under the provisions of the Insolvency and Bankruptcy Code, 2016 before the National Company Law Tribunal at Kolkata cannot be faulted.

One cannot accept the arguments of the writ petitioners that the Authorities under the Insolvency and Bankruptcy Code, 2016 would not be able to assess the propriety of the decisions of the respondent nos. 3 and 4. The provisions of the IBC, 2016 are not only aimed

only at recovery of debt but also at restructuring or revival of Companies that are in financial distress, particularly like the petitioners.

A Writ Court under Article 226 of the Constitution of India does not possess the expertise or wherewithal or the necessary inputs required for deciding the commercial reasons for cancellation of the restructuring proposal or the rehabilitation of the writ petitioner.

Reference in this regard is made to the decision of the Hon'ble Supreme Court of India in the case of **A. Navinchandra Steels Private Limited (supra)**.

“24. A conspectus of the aforesaid authorities would show that a petition either under Section 7 or Section 9 of the IBC is an independent proceeding which is unaffected by winding up proceedings that may be filed qua the same company. Given the object sought to be achieved by the IBC, it is clear that only where a company in winding up is near corporate death that no transfer of the winding up proceeding would then take place to the NCLT to be tried as a proceeding under the IBC. Short of an irresistible conclusion that corporate death is inevitable, every effort should be made to resuscitate the corporate debtor in the larger public interest, which includes not only the workmen of the corporate debtor, but also its creditors and the goods it produces in the larger interest of the economy of the country. It is, thus, not possible to accede to the argument on behalf of the Appellant that given Section 446 of the Companies Act, 1956/Section 279 of the Companies Act, 2013, once a winding up petition is admitted, the winding up petition should trump any subsequent attempt at revival of the company through a Section 7 or Section 9 petition filed under the IBC. While it is true that Sections 391

to 393 of the Companies Act, 1956 may, in a given factual circumstance, be availed of to pull the company out of the red, Section 230(1) of the Companies Act, 2013 is instructive and provides as follows:

“230. Power to compromise or make arrangements with creditors and members.—

(1) Where a compromise or arrangement is proposed—

(a) between a company and its creditors or any class of them; or

(b) between a company and its members or any class of them,

the Tribunal may, on the application of the company or of any creditor or member of the company, or in the case of a company which is being wound up, of the liquidator, appointed under this Act or under the Insolvency and Bankruptcy Code, 2016, as the case may be, order a meeting of the creditors or class of creditors, or of the members or class of members, as the case may be, to be called, held and conducted in such manner as the Tribunal directs.

Explanation.—For the purposes of this subsection, arrangement includes a reorganisation of the company's share capital by the consolidation of shares of different classes or by the division of shares into shares of different classes, or by both of those methods.

xxx xxx xxx”

In **Babulal Vardharji Gurjar (supra)** the Supreme Court held that:-

“20.3.1. In *Swiss Ribbons* [*Swiss Ribbons (P) Ltd. v. Union of India*, (2019) 4 SCC 17] , while upholding the constitutional validity of IBC, this Court took note, *inter alia*, of the pre-existing state of law as also the objects and reasons for enactment of the Code; and while observing that the focus of the Code was to ensure revival and continuation of the corporate debtor, where liquidation is to be availed of only as a last resort, this Court pointed out that on its scheme and framework, the Code was a beneficial legislation to put the corporate debtor on its feet, and not a mere recovery legislation for the creditors. This Court said (SCC p. 55, paras 27 & 28)

“27. As is discernible, the Preamble gives an insight into what is sought to be achieved by the Code. The Code is first and foremost, a Code for

reorganisation and insolvency resolution of corporate debtors. Unless such reorganisation is effected in a time-bound manner, the value of the assets of such persons will deplete. Therefore, maximisation of value of the assets of such persons so that they are efficiently run as going concerns is another very important objective of the Code. This, in turn, will promote entrepreneurship as the persons in management of the corporate debtor are removed and replaced by entrepreneurs. When, therefore, a resolution plan takes off and the corporate debtor is brought back into the economic mainstream, it is able to repay its debts, which, in turn, enhances the viability of credit in the hands of banks and financial institutions. Above all, ultimately, the interests of all stakeholders are looked after as the corporate debtor itself becomes a beneficiary of the resolution scheme—workers are paid, the creditors in the long run will be repaid in full, and shareholders/investors are able to maximise their investment. Timely resolution of a corporate debtor who is in the red, by an effective legal framework, would go a long way to support the development of credit markets. Since more investment can be made with funds that have come back into the economy, business then eases up, which leads, overall, to higher economic growth and development of the Indian economy. What is interesting to note is that the Preamble does not, in any manner, refer to liquidation, which is only availed of as a last resort if there is either no resolution plan or the resolution plans submitted are not up to the mark. Even in liquidation, the liquidator can sell the business of the corporate debtor as a going concern. (See *ArcelorMittal [ArcelorMittal (India) (P) Ltd. v. Satish Kumar Gupta*, (2019) 2 SCC 1] at para 83, footnote 3).

28. *It can thus be seen that the primary focus of the legislation is to ensure revival and continuation of the corporate debtor by protecting the corporate debtor from its own management and from a corporate death by liquidation. The Code is thus a beneficial legislation which puts the corporate debtor back on its feet, not being a mere recovery legislation for creditors. The interests of the corporate debtor have, therefore, been bifurcated and separated from that of its promoters/those who are in management. Thus, the resolution process is not adversarial to the corporate debtor but, in fact, protective of its interests. The moratorium imposed by Section 14 is in the interest of the corporate debtor itself, thereby preserving the assets of the corporate debtor during the resolution process. The timelines within which the resolution process is to take place again protects the corporate debtor's assets from further dilution, and also protects all its creditors and workers by seeing that the resolution process goes through as fast as possible so that another management can, through its entrepreneurial skills, resuscitate the corporate debtor to achieve all these ends."*

(emphasis supplied)

21. The expositions abovementioned make it clear that the Insolvency and Bankruptcy Code, 2016 has been enacted to consolidate and amend the laws relating to reorganisation and insolvency resolution of corporate persons and other entrepreneurs in a time-bound manner so as to ensure maximisation of value of assets of such persons and to balance the interest of all the stakeholders. As regards corporate debtor, the primary focus of the Code is to ensure its revival and continuation by protecting it from its own management and, as far as feasible, to save it from liquidation. As tersely put by this Court in *Swiss Ribbons [Swiss Ribbons (P) Ltd. v. Union of India]*, (2019) 4 SCC 17, *the Code is thus a beneficial legislation which puts the corporate debtor back on its feet, not being a mere recovery legislation for creditors.*"

Merely because an instrumentality of State is engaged in business it cannot be put to any more disadvantage than a private player. The State cannot also be required to grant concessions outside the contract and outside what a private player would ordinarily be required to give. Under the garb of requiring fairness in action even the State business entities cannot be imposed with terms & conditions on non-commercial considerations.

One must note that the State entities are required to compete with private corporations who are far too quick & opportunistic in commercial matters. While it is indeed true that a State instrumentality is expected to act fairly and in a non-arbitrary manner, the PFC & REC are also driven by a profit motive and their functions cannot be fettered to drive them towards financial disadvantage. This would

lead to their ruin & endanger large number of other power companies and persons dependent on them.

The dicta of the Supreme Court in Para 70 of decision **Joshi Technologies (supra)** is of useful reference. Interference under Article 226 in contractual matters of the State is definitely permitted, but the same is done only in exceptional cases.

“70. Further, the legal position which emerges from various judgments of this Court dealing with different situations/aspects relating to contracts entered into by the State/public authority with private parties, can be summarised as under:

70.1. At the stage of entering into a contract, the State acts purely in its executive capacity and is bound by the obligations of fairness.

70.2. State in its executive capacity, even in the contractual field, is under obligation to act fairly and cannot practise some discriminations.

70.3. Even in cases where question is of choice or consideration of competing claims before entering into the field of contract, facts have to be investigated and found before the question of a violation of Article 14 of the Constitution could arise. If those facts are disputed and require assessment of evidence the correctness of which can only be tested satisfactorily by taking detailed evidence, involving examination and cross-examination of witnesses, the case could not be conveniently or satisfactorily decided in proceedings under Article 226 of the Constitution. In such cases the Court can direct the aggrieved party to resort to alternate remedy of civil suit, etc.

70.4. Writ jurisdiction of the High Court under Article 226 of the Constitution was not intended to facilitate avoidance of obligation voluntarily incurred.

70.5. Writ petition was not maintainable to avoid contractual obligation. Occurrence of commercial difficulty, inconvenience or hardship in performance of the conditions agreed to in the contract can provide no justification in not complying with the terms

of contract which the parties had accepted with open eyes. It cannot ever be that a licensee can work out the licence if he finds it profitable to do so: and he can challenge the conditions under which he agreed to take the licence, if he finds it commercially inexpedient to conduct his business.

70.6. Ordinarily, where a breach of contract is complained of, the party complaining of such breach may sue for specific performance of the contract, if contract is capable of being specifically performed. Otherwise, the party may sue for damages.

70.7. Writ can be issued where there is executive action unsupported by law or even in respect of a corporation there is denial of equality before law or equal protection of law or if it can be shown that action of the public authorities was without giving any hearing and violation of principles of natural justice after holding that action could not have been taken without observing principles of natural justice.

70.8. If the contract between private party and the State/instrumentality and/or agency of the State is under the realm of a private law and there is no element of public law, the normal course for the aggrieved party, is to invoke the remedies provided under ordinary civil law rather than approaching the High Court under Article 226 of the Constitution of India and invoking its extraordinary jurisdiction.

70.9. The distinction between public law and private law element in the contract with the State is getting blurred. However, it has not been totally obliterated and where the matter falls purely in private field of contract, this Court has maintained the position that writ petition is not maintainable. The dichotomy between public law and private law rights and remedies would depend on the factual matrix of each case and the distinction between the public law remedies and private law field, cannot be demarcated with precision. In fact, each case has to be examined, on its facts whether the contractual relations between the parties bear insignia of public element. Once on the facts of a particular case it is found that nature of the activity or controversy involves public law element, then the matter can be examined by the High Court in writ petitions under Article 226 of the Constitution of India to see whether action of the State and/or instrumentality or agency of the State is fair, just and equitable or that relevant factors are taken into consideration and irrelevant factors have not gone into the decision-

making process or that the decision is not arbitrary.

70.10. Mere reasonable or legitimate expectation of a citizen, in such a situation, may not by itself be a distinct enforceable right, but failure to consider and give due weight to it may render the decision arbitrary, and this is how the requirements of due consideration of a legitimate expectation forms part of the principle of non-arbitrariness.

70.11. The scope of judicial review in respect of disputes falling within the domain of contractual obligations may be more limited and in doubtful cases the parties may be relegated to adjudication of their rights by resort to remedies provided for adjudication of purely contractual disputes.”

Any restructuring proposal or contract like a loan contract is time bound. Time is the essence of such contract. The Petitioner should have known this while accepting the restructuring proposal. The Petitioner did not appear serious about benefitting from the restructuring proposal and the same was a subterfuge to delay the inevitable consequences of its financial failure.

The petitioner ought to have known about the impending elections and the certainty of the impending Model Code of Conduct. The Assembly elections in the State were fixed at least 3 years earlier by the Election Commission of India. The petitioners cannot be allowed to use the same as a ruse to cover up their own omissions. The petitioners have not demonstrated that they have fulfilled the conditions of the Initial DSRA or the main

DSRA. The petitioner could not have any legitimate expectations of continuation of the restructuring proposal indefinitely.

The omissions and failures of the respondents were duly recorded in the minutes of meeting dated 17th February, 2021, there was substantial notice of cancellation of restructuring proposal. No prejudice could therefore have been caused to the petitioner by non-issuance of a recall notice of the loans or cancellation of restructuring proposal. In the facts of the case it would have been a useless formality.

The Prudential Resolution of the RBI, 2019 have been placed by Mr. Mukherjee to argue that since the restructuring was under the same name, the action of the respondent nos. 3 & 4 can be scrutinized under Art. 226. The restructuring was already done as per the 2019 Directions. The Petitioner have not been able to indicate which regulation has been violated or not been followed. The 2019 Regulation appears to have been referred to in a desperate attempt to attract cause of action under Art. 226. The Respondent Nos. 3 and 4 were afforded a restructuring proposal essentially by reason of the 2019 Regulations and could not take advantage thereof.

This Court therefore finds no arbitrariness or unfairness in the actions of the respondent no. 3 and 4. There is no violation of Article 14 of the Constitution of India. No violation of Natural Justice is found.

Prayer (a) of the petition is *ex facie* illegal and ridiculous. No authority can be compelled by mandamus to review its orders as applied for by an applicant.

For the reasons stated hereinabove, this Court is of the view that the disputes between the writ petitioners and the respondent nos.3 and 4 cannot be entertained or decided in the writ jurisdiction of the High Court under Article 226 of the Constitution of India.

In view of the above, the instant writ petition must fail and is hereby dismissed.

It is made clear that this Court has not in any way entered into the merits of the claims of the writ petitioners against the respondent nos.3 and 4 or vice-versa.

The Authorities acting under the Insolvency and Bankruptcy Code, 2016 shall deal with the proceedings initiated under Section 7 of the code, by the respondent nos.3 and 4 against the petitioners independently and uninfluenced by any observations made by this Court hereinabove.

There will be no order as to costs.

All parties are directed to act on a server copy of this order on usual undertaking.

(Rajasekhar Mantha, J.)