

HIGH COURT OF CHHATTISGARH, BILASPUR

W.P.(227) No.224 of 2020

1. Smt. Rita Devi Yadav W/o Late Sanjay Singh Yadav Aged About 34 Years
2. Anjali Kumari D/o Late Sanjay Singh Yadav Aged About 08 Years
3. Archana Kumari D/o Late Sanjay Singh Yadav Aged About 05 Years
4. Sashi Kumar S/o Late Sanjay Singh Yadav Aged About 03 Years
5. Shivam @ Nain Kumar S/o Late Sanjay Singh Yadav Aged About 01 Year
6. Savita D/o Shri Kanhaiyya Yadav Aged About 16 Years
7. Kanhaiyya Yadav S/o Late Jeet Yadav Aged About 52 Years
8. Smt. Jitani Devi Yadav W/o Shri Kanhaiyya Yadav Aged About 50 Years
(Petitioners No.2 to 6 are Minor Through Natural Guardian Mother And Sister-In-Law Smt. Rita Devi Yadav)
(All are R/o Krishna Nagar Bhanpuri, P. S. Khamtarai, District Raipur Chhattisgarh)

---- Petitioners

Versus

1. Jairam Sahu S/o Shri Bhukhau Ram Sahu Aged About 47 Years R/o Village Devri, P. S. Dharsiva, District Raipur Chhattisgarh-----Driver of Truck No.KA16B4068
2. M/s Punj Llyod Limited Through Manager Sandeep Gupta, Aged About 45 Years S/o Vishnuchand Gupta, R/o Punj Llyod Limited Kapsada, P. S. Dharsiva, District Raipur Chhattisgarh----- Owner of Truck No.KA16B4068

---- Respondents

For Petitioners

– Mr. Hanuman Prasad Agrawal, Advocate.

Hon'ble Shri Justice Rajendra Chandra Singh Samant

Order on Board

19-08-2021

Heard.

1. This petition has been brought being aggrieved by the order dated 15.11.2019, passed in Claim Case No.482 of 2018 between Smt. Rita Devi Yadav and Ors. Vs. Jairam Sahu and Anr., by which the application filed by the respondent No.1 and 2 was allowed and the proceeding in the claim case was stayed.
2. It is submitted that the judgment of the National Company Law Tribunal delivered in the case between ICICI Bank Ltd. Vs. Punj Liyod Ltd. on 08.03.2019 cannot be a ground to withhold the proceeding in a claim case. The purpose of claim case is to determine the liability of the parties in the claim case and to decide the quantum of compensation for which the claimants are entitled. Therefore, such proceeding cannot be stayed, hence, the impugned order is assailable and unsustainable. Therefore, it is prayed that the petition may be admitted and relief be granted to the petitioners.
3. Notices have been returned served upon Respondents No.1 and 2 but they are not represented.
4. The respondents had filed an application praying for stay of proceeding on the ground, that the National Company Law Tribunal, New Delhi has in C.P. No.IB-731(PB)/2018, on the objection of ICICI Bank Ltd against the respondent No.2 under Section 7 of Insolvency and Bankruptcy Code, 2016 (hereinafter referred to as 'the Code of 2016'), initiated Corporate Insolvency Resolution Process against the corporate debtor that is respondent No.2. The N.C.L.T. has decided the petition on 08.03.2019, by which the Corporate Insolvency Resolution Process has

been directed for initiation and a moratorium was declared in terms of Section 14 of the Code of 2016 with respect to respondent No.2

5. The impugned order mentions in detail the order passed by N.C.L.T. and the moratorium declared. Section 14(1)(a) of the Code of 2016 provides that “the institution of suits and continuation of pending suits or proceeding against the corporate debtor including the execution of any judgment, decree or order in any Court of Law, Tribunal, Arbitration Panel or other authority” is prohibited after the declaration of moratorium. Therefore, there appears to be no scope under which the claim petition filed by the petitioners can continue. Section 14(4) of the Code, 2016 provides that “the order of moratorium shall have effect from the date of the order till the completion of the Corporate Insolvency Resolution Process.” Therefore, the process of adjudication of claim case has to remained stayed until the completion of the Corporate Insolvency Resolution Process. Hence, I do not find error in the impugned order. Therefore, the petition is dismissed and disposed off.
6. Accordingly, this petition stands disposed off.

Monika

Sd/-
(Rajendra Chandra Singh Samant)
Judge