

HIGH COURT FOR THE STATE OF TELANGANA AT HYDERABAD
(Special Original Jurisdiction)

FRIDAY, THE THIRTY FIRST DAY OF DECEMBER
TWO THOUSAND AND TWENTY ONE

PRESENT

THE HON'BLE SRI JUSTICE UJJAL BHUYAN
AND
THE HON'BLE SMT JUSTICE P.MADHAVI DEVI

WRIT PETITION NO: 37464 OF 2021

Between:

1. Sri Rajesh Kumar Gupta, S/o Late Sri Matadin Gupta, Age 50 Years, Occ-Business Rio D.No.14-01-400, Part CIBQuarter No.447, Agapura, Hyderabad.
2. Sri Sanjay Kumar Gupta, S/o Late Sri Matadin Gupta, Age 48 Years, Occ-Business Rio D.No.14-01-400, Part CIB Quarter No.447, Agapura, Hyderabad.

...PETITIONERS

AND

1. The Debts Recovery Tribunal-I, Represented through Registrar, Treveni Complex, Abids, Hyderabad. Authority Constituted Under The Debts and Bankruptcy Act 1993
2. The Lakshmi Vilas Bank Limited, Represented by its Asst. General Manager, Main Branch at Koti, Hyderabad
3. M/s. Reliance Assets Reconstruction Company, Represented by its Authorised Person, in capacity as Trustee of Reliance ARC007 Trust. 6th Floor, Ngln Mahal, Plot No.82, Veer Nariman Road. Churchagate, Mumbai. 400 020.
4. M/s. Durga Agencies, D.No.4-4-25015/E, Inderbagh, Sultan Bazar, Hyderabad 095. Also at D.No.4-4-88411/2, Prembagh, K.S. Lane, Sultan Bazar, Opp Hanuman Vyayam Shala Lane, Hyderabad.
5. Sri Shiv Kumar Gupta, S/o Late Sri Matadin Gupta, D.No.14-1-400, Part CIB Quarter No.447, Agapura, Hyderabad. 500 001.
6. Sri Rahul Kumar Gupta, S/o Shiv Kumar Gupta, D.No.14-1-400, Part CIB Quarter No.447, Agapura, Hyderabad. 500 001.
7. Sri Bhavesh Kumar Gupta, S/o Shiv Kumar Gupta, D.No.14-1-400, Part CIB Quarter No.447, Agapura, Hyderabad. - 500 001.
8. M/s Nava Durga Estates, D.No.4-3-72/7, Kandswamy Lane, Sultan Bazar, Hyderabad. 500 095

...RESPONDENTS

Petition under Article 226 of the Constitution of India praying that In the circumstances stated in the affidavit filed therewith, the High Court may be pleased to issue appropriate Writ or Order or direction more particularly one in the form of Writ of Certiorari calling for the records in O.A.No. 115 of 2012 on the file of Respondent No.1 and quash and set-aside the order dated 18.11.2021 in O.A.No. 115 of 2012 on the file of Respondent No.1 against the writ petitioner by declaring that the order is against evidence on the record, Provisions and Principles of law.

IA NO: 2 OF 2021

Petition under Section 151 CPC praying that in the circumstances stated in the affidavit filed in support of the petition, the High Court may be pleased to stay all further proceedings in O.A.No.115 of 2012 on the file of Respondent No.1 pending disposal of this Writ Petition.

Counsel for the Petitioners: SRI ARVIND KUMAR KATA

**Counsel for the Respondent No.2: M/s. PEARL LAW ASSOCIATES,
S.C. FOR LAKSHMI VILAS BANK LIMITED**

Counsel for the Respondent Nos.1, 3 to 8: --

The Court made the following: ORDER

**HONOURABLE SRI JUSTICE UJJAL BHUYAN
AND
HONOURABLE SMT. JUSTICE P. MADHAVI DEVI**

W.P.No.37464 OF 2021

ORDER: *(Per Hon'ble Sri Justice Ujjal Bhuyan)*

Heard Mr.K.Arvind Kumar, learned counsel for the petitioners.

2. In this writ petition filed under Article 226 of the Constitution of India, petitioners have assailed the legality and validity of the order dated 18.11.2021 passed by the Debts Recovery Tribunal-I, Hyderabad (Tribunal) in O.A.No.115 of 2012.
3. Be it stated that respondent Nos.2 and 3 filed a petition under Section 19 of the Recovery of Debts and Bankruptcy Act, 1993 (briefly, 'the Act' hereinafter) before the Tribunal for recovery of a sum of Rs.5,09,94,923.55 with costs and interest against the petitioners and others. The same was registered as O.A.No.115 of 2012. By the impugned order dated 18.11.2021, O.A.No.115 of 2012 was allowed in the following terms:

"In the result, the present Original Application is allowed with costs as under:-

- i) the defendants No.1 to 8 are jointly and severally liable to pay to applicant No.2 a sum of Rs.5,09,94,923.55 Ps with future interest @ 20.35% p.a., from the date of filing of the OA till the date of realization,
- ii) the applicant No.2 is entitled to proceed against application "A" schedule property towards realization of the debt;
- iii) the applicant No.2 is entitled to proceed against person and properties of defendants No.1 to 8, including the assets of the deceased Smt.Anjana

- Gupta, if any, devolved upon Defendants No.2, 3 & 4; and
- iv) the applicant No.2 is entitled to the costs of the OA, which include Advocate Fee as prevailing in the State.

The applicant No.2 is directed to file Cost Memo within 2 weeks from the date of receipt of this order.

Issue Recovery Certificate accordingly.

Communicate a copy of this order to the parties concerned".

4. Section 20 of the 1993 Act provides for filing of appeal to the Appellate Tribunal. As per sub-section (1), any person, who is aggrieved by an order made by a Tribunal under the 1993 Act, may prefer an appeal to the jurisdictional Appellate Tribunal. Limitation for filing such appeal is provided in sub-section (3) which says that such an appeal should be filed within a period of 30 days from the date on which copy of the order is received by the person aggrieved. As per the proviso, the Appellate Tribunal may entertain an appeal after the expiry of the aforesaid period of 30 days if it is satisfied that there was sufficient cause for not filing the appeal within the limitation period.

5. We have carefully perused the averments in the supporting affidavit, but we do not find any pleading as to why petitioners have not availed the appellate remedy and instead have invoked the jurisdiction of this court under Article 226 of the Constitution of India.

6. In the circumstances, petitioners are relegated to the forum of Appellate Tribunal under Section 20 of the 1993 Act. The period spent in pursuing this writ petition before this court shall be excluded while computing the limitation period in filing the appeal. Further, if the appeal is filed within a period of 30 days from today, the same shall be considered on its own merit by the Appellate Tribunal.

7. However, we have been informed that presently the Appellate Tribunal is not functional because of the absence of the regular Chairman. That being the position, we direct that for a period of 60 days from today, respondents shall not take any further steps pursuant to the order dated 18.11.2021 passed by the Tribunal. Beyond the aforesaid period, it will be entirely within the discretion of the Appellate Tribunal to pass such order as may be deemed fit and proper. However, if the appeal, as above, is not filed, respondents shall be at liberty to proceed in accordance with law.

8. Subject to the above, writ petition is disposed of.

9. Miscellaneous applications, if any pending, shall stand closed.

10. No costs.

SD/-P.PADMANABHA REDDY
ASSISTANT REGISTRAR
SECTION OFFICER

//TRUE COPY//

To,

1. The Registrar, Debts Recovery Tribunal-I, Authority Constituted Under The Debts and Bankruptcy Act 1993, Treveni Complex, Abids, Hyderabad.
2. The Asst. General Manager, Lakshmi Vilas Bank Limited, Main Branch at Koti, Hyderabad
3. One CC to SRI ARVIND KUMAR KATA, Advocate [OPUC]
4. One CC to M/s. PEARL LAW ASSOCIATES, S.C. for Lakshmi Vilas Bank Limited [OPUC]
5. Two CD Copies.
6. One Spare Copy.

MP
NPJ

HIGH COURT

DATED:31/12/2021

ORDER

WP.No.37464 of 2021



**DISPOSING OF THE WRIT PETITION
WITHOUT COSTS**

⑦
3/1/22
Hv4