

Arun

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
WRIT PETITION NO. 1174 OF 2022**

Manoj Virji Thacker	...Petitioner
<i>Versus</i>	
VNV Productions Pvt Ltd (In Liquidation)	...Respondent

Mr Zain Mookhi, *with Arshil Shah, Preeti Gada, Smita Durve & Rajeesh Shah, for the Petitioner.*
Mr Rajesh Dubey, *with Shraddha Agrawal & Ruchita Sankhe, for the Respondent.*

**CORAM G.S. Patel &
 Madhav J. Jamdar, JJ.
DATED: 30th March 2022**

PC:-

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RAMCHNDRA
SANKPAL

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1. The Writ Petition is totally misconceived.

2. The only Respondent is the Liquidator of a private limited company, VNV Productions Pvt Ltd. Neither the company nor its Liquidator is an instrumentality of the State within the meaning of Article 12 of the Constitution of India. They are not amenable to the writ jurisdiction of this Court.

3. Prayer clause (a) of the Petition seeks a Writ of Mandamus restraining the Liquidator from dispossessing the Petitioner from

certain immovable properties or disturbing the possession of the Petitioner. This is a relief that can only be sought in a civil proceedings for possession and for an injunction with or without a prayer for possession.

4. We are told that there was a Moratorium because of the Insolvency and Bankruptcy Code (“IBC”) and therefore the Petitioner was left “remediless”. The submission is thoroughly misconceived. The statutory Moratorium only suspends for a temporary period proceedings by or against the company in liquidation very similar to the provisions that used to obtain under the Sick Industrial Companies (Special Provisions) Act. There is no taking away of a remedy as is sought to be submitted. The statutory Moratorium required by the IBC has an avowed public purpose. This cannot be subverted by instituting petitions under Article 226 of the Constitution of India against the private Respondents.

5. Indeed we are now informed that Liquidation process is complete and the Moratorium period has come to an end. The Petitioner is therefore at liberty to adopt such civil proceedings as he may be advised.

6. The Petition is dismissed. All contentions are left open for appropriate remedies.

(Madhav J. Jamdar, J)

(G. S. Patel, J)