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CRP Nos.3279 and 3280 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 08.08.2023

CORAM

THE HON'BLE MR.SANJAY V.GANGAPURWALA , CHIEF JUSTICE

AND

THE HON'BLE MR.JUSTICE P.D.AUDIKESSAVALU

CRP Nos.3279 and 3280 of 2022

Ranjith Babu : Petitioner in CRP No.3279 of 2022

M/s.Alturas Trading Corp.
rep. By its Partner, Anitha : Petitioner in CRP No.3280 of 2022

versus

1.Ganesan Geetha

2.M/s.VRMX Concrete India Pvt.Ltd.
Old No.110, New No.111A,
2nd Floor, Mount View Building,
Mount Road, Guindy,
Chennai 600 032

3.M/s.Salem Mines and Aggregates,
rep. By its Partner Mr.P.Subramani : Respondents

Prayer: Civil revision petition filed under Article 227 of the Constitution of India against the order dated 21.07.2022 passed by National Company Law Tribunal 1, Chennai Bench in IA/IBC/431/CHE/2021 in IBA/606/2020 and IA/IBC/432/CHE/2021 in IBA/606/2020.

For the Petitioners : Ms.M.Revathi

For the Respondents : Mr.P.Mohan Prasad,
M/s.Viruksham Legal,
for the second respondent
No appearance for respondent No.1



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Not ready in notice for respondent No.2
COMMON ORDER

(Made by the Hon'ble Chief Justice)

Learned counsel for the petitioners submits that the present petitioners, being operational creditors, filed IA Nos.431 and 432 of 2022, objecting to an application filed by IRP under Section 1A of the Insolvency and Bankruptcy Code, 2016.

2. The learned counsel submits that the reliance placed by the National Company Law Tribunal (hereinafter referred to as, 'the Tribunal') on the judgment of the Apex Court in the case of *Kamal Singh vs. Dinesh Gupta* dated 25.08.2021, is erroneous. All other factors are required to be considered. According to the learned counsel, though an application has been made by the respondents under Rule 11 of the NCLT Rules, the present application was still maintainable. According to the learned counsel, the advocate engaged by the petitioners had not appeared in the matter; rather her associate appeared and she only sought adjournment. However, the Tribunal has erroneously recorded that the advocate had argued at length and wasted the judicial time of the Tribunal and imposed a cost of Rs.25,000/- (Rupees Twenty Five Thousand only) payable to the Prime Minister National Relief Fund. According to the learned counsel, her



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associate made only few submissions.

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3. The application filed by the petitioners before the NCLT is pending, as contended by the learned counsel for the petitioners. The petitioners may agitate all these aspects in the said proceedings.

4. As far as the observation of the learned Tribunal is concerned, the petitioners ought to have filed an application, bringing to its notice about the fact that no major arguments were advanced and as such, had not wasted the judicial time of the Tribunal. The petitioners, even now, are at liberty to do so. As far as imposition of cost is concerned, as the same is made payable to the Prime Minister National Relief Fund, and the same has already been paid, we are not interfering with that.

5. The Civil Revision Petitions as such, stand disposed of. There will be no order as to costs. Consequently, CMP Nos.17411, 17409, 17415 of 2022 are closed.

(S.V.G., C.J.)

(P.D.A., J.)

08.08.2023

Index : Yes/No
Neutral Citation : Yes/No
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To

The National Company Law Tribunal 1, Chennai Bench



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THE HON'BLE CHIEF JUSTICE
AND
P.D.AUDIKEVALU, J.

(tar)

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