



W.P.No.28516 of 2023

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 01.11.2023

CORAM :

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

AND

THE HON'BLE MR.JUSTICE D.BHARATHA CHAKRAVARTHY

W.P.No.28516 of 2023

V.Ganesan

.. Petitioner

Vs.

Prudent ARC Limited
Through Amarjat Kochar
Authorised Signatory
611, D Mall, Plot No.A1
Netaji Subhash Place
Pitampura, New Delhi 110 034.

.. Respondent

Prayer: Petition filed under Article 226 of the Constitution of India seeking a writ of Certiorari to call for the records and quash the common order dated 20.09.2023 passed by the Hon'ble National Company Law Tribunal, Chennai Bench in IA(IBC) No.705 of 2023 insofar it relates to the replacement of the petitioner as the Liquidator of the Corporate Debtor.



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For the Petitioner : Mr.Ravi
Senior Counsel
For M/s. Gupta and Ravi

For the Respondent : Mr.N.L.Rajah
Senior Counsel
For M/s. G.Mani Prabhu

Mr.A.G.Sathyanarayana
(For New Liquidator)

ORDER

(Made by the Hon'ble Chief Justice)

We have heard Mr.Ravi, learned Senior Counsel for M/s. Gupta and Ravi for the petitioner, Mr.N.L.Rajah, learned Senior Counsel for M/s. G.Mani Prabhu for the respondent and Mr.A.G.Sathyanarayana, learned counsel for the new Liquidator.

2. The petitioner is assailing the order passed by the National Company Law Tribunal removing the petitioner as a Liquidator.

3. Learned Senior Counsel for the petitioner submitted that the petitioner is challenging the impugned order removing the petitioner as



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a Liquidator before this Court as the impugned order is passed without jurisdiction. The Tribunal does not possess the authority to remove the Liquidator *suo motu*. The Liquidator can be removed only under Section 31A(11) of the Insolvency and Bankruptcy Code. Learned Senior Counsel took us through the proceedings conducted before the National Company Law Tribunal.

4. According to learned Senior Counsel for the respondent, the Tribunal has *suo motu* powers to remove the Liquidator if the things are not moving. Reference is made to the provisions of Section 276 of the Companies Act and also to the judgments delivered by the National Company Law Tribunal.

5. According to learned Senior Counsel for the petitioner, the judgments of the National Company Law Tribunal, relied upon by the respondent, are delivered before the amended provisions of Section 31A(11) of the IBC.

6. The removal of the petitioner as a Liquidator was discussed by



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the National Company Law Tribunal. Rival contentions are made with regard to the authority of the National Company Law Tribunal to remove the Liquidator on its own motion.

7. The statutory appeal is provided under the Regulations itself. It would be appropriate if the petitioner avails the statutory remedy.

8. In view of the fact that alternative efficacious remedy is available, we are not inclined to entertain the writ petition under Article 226 of the Constitution of India.

9. In the light of the above, the writ petition is disposed of with liberty to the petitioner to avail the alternative remedy provided under the statute. In that event, all contentions are kept open. The interim protection is continued for a period of seven days from today so as to enable the petitioner to take appropriate steps before the National Company Law Appellate Tribunal.

10. Considering the exigency in the matter, the National



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Company Law Appellate Tribunal may endeavour to decide the matter expeditiously.

11. There will be no order as to costs. Consequently,
W.M.P.No.28065 of 2023 is closed.

(S.V.G., CJ.)

(D.B.C., J.)

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Index : Yes/No
Neutral Citation : Yes/No

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THE HON'BLE CHIEF JUSTICE
AND
D.BHARATHA CHAKRAVARTHY, J

(kpl)

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