

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

102+220

2023:PHHC:061732-DB

**CM-5968-CWP-2023 in/and
CWP-30348-2022 (O & M)
Date of Decision: 01.05.2023**

Vikram Bhawanishankar Sharma

.....Petitioner(s)

Versus

SREI Infrastructure Finance Ltd. and others

.....Respondent(s)

**CORAM: HON'BLE MR. JUSTICE G.S.SANDHAWALIA
HON'BLE MS. JUSTICE HARPREET KAUR JEEWAN**

Present: Mr. Amit Jhanji, Sr. Advocate,
with Mr. Harminder Singh, Advocate,
and Ms. Nikita Garg, Advocate,
for the petitioner.

Mr. Anand Chhibbar, Sr. Advocate,
with Mr. Amitabh Tewari, Advocate,
for the applicant-respondent No.1.

G.S.SANDHAWALIA, J. (Oral)

1. The petitioner, in the present writ petition filed under Article 226 of the Constitution of India, is aggrieved against the order dated 22.12.2022 passed by the National Company Law Tribunal, Chandigarh Bench in CP (IB) No.442/Chd/Hry/2019 (Annexure P-1). Vide the said order, the Tribunal had appointed respondent No.2-Mr. Rajesh Lihala, the Interim Resolution Professional under Section 16(5) of the Insolvency and Bankruptcy Code, 2016 (in short 'the Code'). Certain other interim directions were also issued while admitting the said petition. The following contention was put forth on 26.12.2022 when the matter came up:-

*“Prayer in this petition is for issuance of a writ of
certiorari for quashing of the order dated 22.12.2022*

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passed by NCLT, Chandigarh Bench, vide which Interim Resolution Professional is appointed.

Learned senior counsel for the petitioner has submitted that in fact on 29.07.2022, NCLT, Mumbai Bench has appointed Justice P.N. Deshmukh (Retd.) of Bombay High Court as chairperson for conducting the meeting of 13 Financial Creditors, who have set up their claim before the NCLT, Mumbai Bench and the private respondent SREI Infrastructure Finance Ltd. is at Sr. No.11 and is a party to the proceedings, which are being undertaken in terms of the directions issued by NCLT, Mumbai Bench. Learned senior counsel has referred to the proceedings dated 08.08.2022, wherein Mr. B.C. Bhandari of SREI Infrastructure Finance Ltd. appeared in those proceedings. It is further submitted that while hearing the arguments, before passing the impugned order, this fact was brought to notice of NCLT, Chandigarh that proceedings are already pending before NCLT, Mumbai Bench with regard to framing of a scheme for the purpose of ascertaining the claim of the creditors and said case is now listed for 25.01.2023. It is also submitted that there is every possibility that the entire settlement may be arrived in those proceedings.

Notice of motion for 07.02.2023.

In the meantime, operation of the impugned order shall remain stayed subject to the condition that the petitioner will file an additional affidavit regarding the efforts made for settling the claim of all the creditors.”

2. Apparently, the impugned order having been passed on 22.12.2022, it is also pleaded in the writ petition itself that 23.12.2022 was

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was to reopen on 02.01.2023 and the petitioner had no notice whether any Vacation Bench was functioning and, therefore, it has been deprived of its statutory remedy of appeal under Section 61 of the Code. Resultantly, writ jurisdiction of this Court was being invoked.

3. Respondent No.1, in its reply, while also taking cue from the said paragraphs, has taken the plea of alternative remedy being available.

4. Keeping in view the above, even counsel for the parties are now agreed that the matter can be relegated to the statutory Tribunal.

5. Resultantly, we dispose of the writ petition with liberty to the petitioner to avail his statutory remedy of appeal before the above said Tribunal within a period of two weeks from today. However, since the stay has been operating since the said date i.e. 26.12.2022, we continue the said stay till the filing of the appeal within the abovesaid period. The petitioner is at liberty to file an appropriate application for the continuation of the said relief and file an appropriate application under Section 14 of the Limitation Act, 1963 keeping in view the fact that the matter was pending before this Court. All pending applications also stand disposed of.

(G.S. SANDHAWALIA)
JUDGE

01.05.2023
shivani

(HARPREET KAUR JEEWAN)
JUDGE

Whether reasoned/speaking
Whether reportable

Yes
No