

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.9475 of 2022

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Bhadra Shree Steel and Power Ltd. Hospet, Plot No.- 16, Ananda bilaya Jain Colony, Bellary, Karnataka through its authorized (Signatory Officer) Munnar Khan, Gender- Male, Aged About 46 Years, Son of Mehdi Hasan, Resident of House No.- F-63 Block New Seelampur Garhi Mendu, P.S. New Seelampur, District- North East Delhi, State- New Delhi.

... .. Petitioner/s

Versus

1. The State Bank of India Stressed Assets Recovery Branch 2nd Floor, Patna Main Branch Building, Patna through its Assistant General Manager.
2. The Assistant General Manger State Bank of India, SARB, Patna.
3. Sri Authorized Officer State Bank of India, SARB, Patna.
4. The District Magistrate Lakhisarai.
5. The Superintendent of Police Lakhisarai.
6. The S.H.O., Tetarhat, Police Station Lakhisarai.
7. The Balajee Ingot India Private Limited Through its Director adn Guarantor Nirmal Kanodia, Son of Shubh Karan Kanodia and Ramesh Kanodia, Daruka and Awadhesh Agarwal, Resident of Naya Bazar, Ward No.- 22, P.S. and District- Lakhisarai.

... .. Respondent/s

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with
CIVIL REVIEW No. 230 of 2023
In
Civil Writ Jurisdiction Case No.1847 of 2023

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Balajee Ingot India Private Ltd. having its Registered office at 2/7, Sarat Bose Road, Sixth floor, Suit No.3, Vasundhara Building, Kolkata-700020 through its Authorized representative namely Aditya Kanodia Male aged about 29 Years Son of Nirmal Kanodia resident of EM By Pass, Kolkata-105.

... .. Petitioner/s

Versus

1. The State of Bihar through the Chief Secretary, Government of Bihar, Patna.
2. The Director General of Police, Bihar, Patna.
3. The District Magistrate, Lakhisarai.
4. The Superintendent of Police, Lakhisarai.
5. The officer Incharge, Lakhisarai, Tetarhat, Police Station.
6. The State Bank of India, through the Chairman-Cum-Managing Director, State Bank of India, Corporate Centre, State Bank Bhawan, Madame Cama Road, Mumbai-400021.
7. The Chief Manager, State Bank of India, Lakhisarai Branch, Naya Bazar,



Lakhisarai.

- 8. The Stressed Assets Recovery Branch, having its Office at, State Bank of India, Main Branch Building, West Gandhi Maidan, Patna-800001 through its Assistant General Manager.
- 9. The Authorized Officer, The Stressed Assets Recovery Branch Having its Office at State Bank of India, Main Branch Building, West Gandhi Maidan, Patna-800001
- 10. Bhadrashree Steel and Power Ltd., having its registered Office at 2/37, Fourth floor, Ansari Road, Dariyaganj, New Delhi-110002.

... .. Opposite Party/s

Appearance :

(In Civil Writ Jurisdiction Case No. 9475 of 2022)

For the Petitioner/s : Mr. Mukesh Kumar, Adv.
For Respondent No. 7 : Mr. Gautam Kejriwal, Adv.
: Mr. Alok Kumar Jha, Adv.
: Mr. Mukund Kumar, Adv.
For SBI : Mr. Santosh Kumar Singh, Adv.
For the State : Mr. Manish Kumar (Gp4)
: Dr. Mankeshwar Tiwari, AC to AAG3

(In CIVIL REVIEW No. 230 of 2023)

For the Petitioner/s : Mr. Gautam Kejriwal, Adv.
: Mr. Alok Kumar Jha, Adv.
: Mr. Mukund Kumar, Adv.
: Mr. Aditya Kumar, Adv.
: Mr. Akash Kumar, Adv.
For SBI : Mr. Santosh Kumar Singh, Adv.
For the Opposite Party/s : Mr. Prabhat Kumar Verma(Aag 3)
: Dr. Mankeshwar Tiwari, AC to AAG3

CORAM: HONOURABLE MR. JUSTICE A. ABHISHEK REDDY
ORAL ORDER

26 20-08-2024

Civil Writ Jurisdiction Case No.9475 of 2022

Heard the learned counsel for the parties.

The present writ petition has been filed for the following reliefs:-

“(I) For issuance of an appropriate writ/writs or direction in the nature of mandamus, Commanding and directing the respondents to give all auctioned description of the properties mentioned in Auction sale Notice dated 23.04.2021 and auction held on 17.05.2021



of the properties of Balajee Ingot India Pvt. Ltd. Lakhisarai to the petitioner, Bhadra Shree Steel & Power Ltd, being successful bidder who deposited entire auction bid amount Rs. 54,98,0000 on 21.06.2021 but till date they have not given actual possession.

After receiving of whole amount the respondent Authorised Officer of State Bank of India SARB, Patna with connivance of respondent no. 7 Director & Guarantor of Balajee Ingot and keeping. the police also in their favour do not allow the petitioner to lift the auction bid assets.

Further for issuance of an appropriate direction to the respondents to District Magistrate, Lakhisarai and Police Officer of Lakhisarai district to handover possession and to lodge an F.I.R on the application dated 27.04.2022 and 25.05.2022 sent by petitioner and further allow the petitioner to lift whole auctioned properties aforesaid, the S.H.O, Tetarhat, Lakhisarai respondents with connivance of the borrower respondents are not allowing the petitioner to take the auction bid assets description given in Tender Notice and in Letter of Intent dated 17.05.2021.

Further for a direction to the respondents to pay compensation to the petitioner since 17.05.2021 till date with interest.

The petitioner company after investing more than 5 Crore amount are running Pillar to Post for taking possession of the properties.”

3. Having regard to the fact that during the pendency of the present writ petition, the National Company Law Tribunal, Kolkata Bench has entertained the petition under Section 7 of the Insolvency and Bankruptcy Code, 2016 in



respect of the respondent No. 7 herein and appointed Interim Resolution Professional (IRP), this Court is not inclined to adjudicate the issue involved in the present writ petition.

4. The parties in the present writ petition are directed to approach the IRP and file their respective claims, if any, in accordance with the provisions of the Insolvency and Bankruptcy Code, 2016. Though, the counsel for the petitioner relying on the order passed by the National Company Law Appellate Tribunal, New Delhi in Company Appeal (AT) (Insolvency) No. 147 of 2017 dated 14.09.2017 has stated that this Court under Article 226 of Constitution of India has jurisdiction to decide the matter, this Court is not swayed by the said arguments, having regard to the facts that there are several disputed questions of fact which cannot be gone into under Article 226 of Constitution of India and the Interim Resolution Professional (IRP) appointed by the National Company Law Tribunal, Kolkata Bench in CP (IB) No. 39/KB/2024 is better equipped to deal with the matter.

5. The present writ petition is disposed of directing the parties in the present writ petition to approach the RP/IRP and file their respective claims, if any. The respondent No. 7 shall hand over the physical possession of the subject company



to the IRP/RP (Resolution Profession) and the State authorities are also directed to facilitate the same without causing any impediment.

6. With the above direction, the present writ petition stands disposed of.

CIVIL REVIEW No. 230 of 2023

In view of the judgment passed by this Hon'ble Court in CWJC No. 1847 of 2023 dated 28.03.2023, the application filed for review of the above CWJC is dismissed leaving it open to the petitioner to approach the Resolution Professional (RP). It is made clear that this Court has not made any comments or observations on the merit of the case and leaving it open to the parties to raise all claims/issues before the RP/IRP and the same shall be dealt with by the RP/IRP in accordance with law.

(A. Abhishek Reddy, J)

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