

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.17927 of 2023

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M/s Vishwa Infrastructures and Services Private Limited having its registered office at 1-11-256/C/24, Plot No. 24, Gagan Vihar Colony, Begumpet, Hyderabad-500016 through its authorized representative namely R. Srikanth (Male), aged about 42 years, son of R. Yadagiri, resident of House NO. 6-6-269/88, Arun Jyothi Colony, Gandhi Nagar, Police Station-Gandhi Nagar, Secunderabad, Hyderabad, Telangana.

... .. Petitioner/s

Versus

1. The State of Bihar through the District Magistrate, District-Sheohar.
2. The District Magistrate, Sheohar, District-Sheohar.
3. The Certificate Officer, Sheohar, District-Sheohar.
4. The Additional Collector, Sheohar.
5. The Principal Secretary, Public Health Engineering Department, Government of Bihar, Patna.
6. The Engineer-in-Chief, Public Health Engineering Department, Government of Bihar, Patna.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Sanjeev Kumar, Adv.
For the Respondent/s : Mr. Manish Kumar (Gp 4)

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

2 22-01-2024 Heard learned counsel for the parties.

2. The present writ petition has been filed for the following relief(s):-

“i) To issue a Writ in the nature of Certiorari for quashing the Certificate Case No. 49/2022-23 having been initiated against the petitioner company as same is in teeth of law laid down by Hon’ble Supreme Court and the provisions of Insolvency and Bankruptcy Code, 2016, rendering the same as



wholly without jurisdiction.

ii) To issue a Writ in the nature of Certiorari for quashing any order/ action/ notice in connection with the execution of Warrant of Arrest issued by the District Certificate Officer, Sheohar against the petitioner company in Certificate Case No. 49/2022-23.”

3. Learned counsel for the petitioner has stated that the petitioner company is under liquidation before the N.C.L.T. and the resolution professional has already been appointed. Subsequently, the company has also been sold to the successful bidder, namely, IndVis Holdings Private Limited. Learned counsel has also stated that once the company has been liquidated and sold to the third party, the authorities cannot initiate any proceedings against the petitioners' company. The only remedy available to the creditors, if any, was to approach the resolution professional and file their claim before the said resolution professional at the relevant point of time.

4. Learned counsel has relied on the judgment of the ***Hon'ble Supreme Court*** reported in ***2021 SCC OnLine SC 313*** to buttress his contention:

“102.1. That once a resolution plan is duly approved by the adjudicating authority under sub-section (1) of Section 31, the claims as provided in the



resolution plan shall stand frozen and will be binding on the corporate debtor and its employees, members, creditors, including the Central Government, any State Government or any local authority, guarantors and other stakeholders. On the date of approval of resolution plan by the adjudicating authority, all such claims, which are not a part of resolution plan, shall stand extinguished and no person will be entitled to initiate or continue any proceedings in respect to a claim, which is not part of the resolution plan.

***102.2.** The 2019 Amendment to Section 31 of the I&B Code is clarificatory and declaratory in nature and therefore will be effective from the date on which the I&B Code has come into effect.*

***102.3.** Consequently all the dues including the statutory dues owed to the Central Government, any State Government or any local authority, if not part of the resolution plan, shall stand extinguished and no proceedings in respect of such dues for the period prior to the date on which the adjudicating authority grants its approval under Section 31 could be continued.”*

5. Learned counsel has stated that the petitioner has



already filed his objections under Section 9 of the Act including the maintainability of the certificate proceedings, however, the authority without considering the same are trying to take coercive action against the petitioner and to that effect, the warrant of arrest has also been issued. Learned counsel has prayed this Hon'ble Court to direct the Certificate Officer to first decide the maintainability of the certificate proceedings and pass necessary orders under Section 10 and pending the proceedings no coercive steps be taken against the petitioner.

6. Per contra, the learned counsel appearing on behalf of the respondents has stated that the authority concerned has only issued a show cause notice to the petitioner as to why a warrant of arrest should not be issued and the same is not warrant of arrest as contended. Learned counsel has stated that as the petitioner has filed the objections under Section 9, the objections shall be taken into consideration by the authority and necessary orders passed including the maintainability of the certificate proceedings against the petitioner.

7. Having regard to the above made submissions, without going into the merits or demerits of the case, the present writ petitions is disposed of directing the Certificate



Officer to pass necessary orders duly taking into account the objections filed by the petitioner including the maintainability of the certificate proceedings as expeditiously as possible preferably within a period of eight weeks from the date of the receipt of the copy of this order. It is needless to mention that before passing any orders, the petitioner shall be given an opportunity of hearing. Any order passed shall be communicated to the petitioner.

8. Till such time the orders are passed under Section 10, the authorities are directed not to take any coercive steps against the petitioner.

9. With the above directions, the present writ petition stands disposed off.

(A. Abhishek Reddy , J)

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