

03.12.2024
DL/6
Court No. 13
Sudipta

MAT 1785 of 2013
In
WPA 29642 of 2013

Satya Narain Jhunjhunwala
Versus
The Pradeshia Industrial & Investment Corporation of
U.P. Limited (P.I.C.U.P.) & Ors.

Mr. Mainak Bosu, Sr. Adv.
Mr. Kanishk Kejriwal, Adv.
Mr. P. Sharma, Adv.

.....for the Appellant.

1. In the cause title of the order dated 2nd December 2024, the WPA number shall stand corrected as WPA 29642 of 2013 instead of WPA 2964 of 2013.
2. The instant appeal is directed against a certificate proceeding of recovery of dues of the respondent No. 1, the Pradeshia Industrial & Investment Corporation of U.P. Limited (P.I.C.U.P).
3. It appears that the P.I.C.U.P. had taken out a proceeding against the petitioner as guarantor while the principal debtor was in rehabilitation under the provisions of the Sick Industrial Companies (Special Provision) Act (SICA) of 1985. This was in view of the settled law that the pendency of proceedings under the SICA does not prevent a creditor from the proceedings against the individual guarantors. The proceedings culminated in a certificate. The certificate of recovery was issued to the appellant/petitioner by the P.I.C.U.P.

The said certificate was transmitted to the Collector, South 24 Parganas on 20th May 2013 for assistance in recovery of dues payable by the appellant to M/s P.I.C.U.P.

4. Learned counsel for the appellant would argue that the respondent No.1 is a State Financial Corporation in terms of the notification issued by the Central Government dated 24th January 2004 and, therefore, the respondent no. 1 has to avail the provisions of the RDB Act of 1993, the SARFAESI Act, 2002.
5. It appears from the record that in the case of ***Pawan Kumar Jain Vs. Pradeshiya Industrial and Investment Corporation of U.P. Ltd and Another*** reported in ***(2004) 6 SCC 758***, the Hon'ble Supreme Court has held that where certificate proceedings have been commenced before the notification dated 24th January 2004, such proceedings need not be transferred to the Debts Recovery Tribunal under Section 31 of the Recovery of Debts Due to Banks and Financial Institutions Act, 1993 (RDB Act of 1993).
6. The certificate proceedings of the P.I.C.U.P., sought to be executed through the Collector, South 24 Parganas, therefore, cannot be faulted.
7. The maintainability of the writ petition, is also questionable since only the certificate of demand issued by the Collector, South 24 Parganas, has

been challenged, without any challenge to the main certificate proceedings at Lucknow. It would be inappropriate for the Writ Court at Calcutta to entertain any challenge to a certificate proceeding for recovery at Kolkata based on the principal certificate issued at Lucknow by the respondent No.1.

8. The territorial jurisdiction of this Court to entertain the writ petition is also questionable.
9. This is yet another ground for the appeal to fail.
10. In view of the above, MAT 1785 of 2013 shall stand dismissed.
11. Consequently, all connected pending applications, if any, shall also stand dismissed.
12. Let a copy of this order along with a copy of this instant appeal be communicated with the Collector, South 24 Paraganas, for necessary compliance.
13. There shall be no order as to costs.
14. Urgent photostat certified copy of this order, if applied for, be given to the parties upon compliance of all formalities.

(Rajasekhar Mantha, J.)

(Ajay Kumar Gupta, J.)