

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.17616 of 2023

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M/s Vishwa Infrastructures 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-45 years, Son of R. Yadagiri, resident of House No.6-6-269/88, ArunJyothi Colony, Gandhi Nagar, Police Station- Gandhi Nagar, Secunderabad, Hyderabad, Telangana.

... .. Petitioner/s

Versus

1. The State of Bihar through the District Magistrate, District- Madhubani.
2. The District Magistrate, Madhubani, District-Madhubani.
3. The Certificate Officer, Madhubani, District-Madhubani.
4. The Additional Collector, Madhubani.
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, Advocate Mr. Prava Shankar Mishra, Advocate Mr. Navneet Dubey, Advocate
For the State	:	Mr. P.K. Shahi. A.C. to A.G.

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CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR SINHA
ORAL ORDER

2 04-11-2025 Heard learned counsel for the parties concerned.

2.The petitioner has challenged the order dated 08.06.2023, passed in Certificate Case No. 1/2017-18 including the entire Certificate proceeding having been initiated against the petitioner for recovery of sum of Rs. 13,83,000/-.

3. Mr. Sanjeev Kumar, learned counsel appearing for the petitioner submits that petitioner's company was under liquidation before the NCLT. The resolution professional was



appointed. Subsequently, the company has been sold to the successful bidder, namely, IndVis Holdings Private Limited. Once the company has been under liquidation and sold to the third party, the authorities cannot initiate any proceeding against the petitioner's company for recovery of the amount by way of Public Demand Recovery Act. 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. He relied upon a judgment of Hon'ble Supreme Court in this regard in the case of ***Ghanshyam Mishra and Sons Private Limited V/s Edelweiss Asset Reconstruction Company Limited through the Director and Ors. reported in (2021) 9 SCC, 657.*** The petitioner as per aforesaid circumstances, approached this Court in C.W.J.C. No. 8040 of 2022 which was disposed vide order dated 02.08.2022, granting liberty to the petitioner to file fresh objection under Section 9 of the Act within four weeks taking into account the preliminary objection raised by the petitioner regarding maintainability of the certificate proceeding in view of the fact that petitioner's company was under liquidation. In his objection, the petitioner has taken the plea that Corporate Insolvency Resolution Process



(CIRP) was initiated in respect of the petitioner's company under the provisions of Insolvency and Bankruptcy Code, 2016 by NCLT, Hyderabad. The liquidator has published Public Notice in Newspaper inviting claims with supporting evidence from all the stake holders, but no claim has been received from any Department. The date of receipt of claim was also over. The company has undergone successful liquidation resolution process under the Insolvency and Bankruptcy Code ("IBC"), 2016, which was completed on 30.06.2021 by way of sale of the company as ongoing concern.

5. In pursuance of the order passed by the Hon'ble NCLT, all the liabilities, including statutory liabilities, of the Corporate Debtor and the proceeding against the Company stand extinguished qua the successful bidder IndVis Holdings Private Limited who has taken over the management, control and affairs of the company, pursuant to the aforesaid process.

6. Referring to Annexure P/2 which is annexed with reply to the counter affidavit filed by the petitioner, learned counsel submits that in similar circumstances based upon the objection filed by the petitioner's company in the District, Seohar, the Certificate Officer taking note of the judgment of this Court in C.W.J.C. No. 17927 of 2023 having reference of



the judgment of the Hon'ble Supreme Court in ***Ghanshyam Mishra and Sons Primavte Limited*** (supra) has held that certificate proceeding initiated against the company is not maintainable and the certificate creditor can pursue its remedy before the appropriate forum under the Insolvency and Bankruptcy Code, 2016 ("IBC"). In the present matter, the Certificate Officer has failed to appreciate the objection filed by the petitioner including the Supreme Court judgment and has rejected the objection of maintainability of the petitioner on the ground that petitioner deliberately did not appear before the Certificate Officer. Learned counsel submits that while submitting his objection on the point of law, the petitioner had also submitted an application that his objection may be decided on the basis of detailed objection filed by the petitioner.

7. The Certificate Officer has erred in law in holding that the Certificate Creditor are entitled to recover Rs. 13,83000/- from the petitioner's Company which is incomplete violation of the judgment of the Hon'ble Supreme Court in this regard.

8. On the other hand, learned counsel for the State submits that it is true that in view of the Hon'ble Supreme Court, the Certificate Officer cannot recover the amount from



the petitioner's company under the Public Demand Recovery Act after completion of insolvency proceeding before the NCLT, Hyderabad. However, the submission is that a notice to the creditors was published in a newspaper, having circulation at Hyderabad only and was not published in the national newspaper, having larger circulation, as such, the respondent creditors could not stake their claim before the resolution professional within time. He further submits that Certificate proceeding was initiated in the year 2017-18 having Certificate Case No. 1/2017-18 but the petitioner never informed to the respondent authorities regarding the insolvency proceeding initiated against the petitioner's company, NCLT, Hyderabad.

9. I have heard learned counsel for the parties concerned and have gone through the materials on record.

10. The Hon'ble Supreme Court in the judgment reported (supra) in paragraph 102.1-102.3 has held that 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 of claim which is not part of of the resolution plan. The Certificate Officer, Seohar based upon the judgment of the Hon'ble Supreme Curt, has rightly



held that the certificate proceeding is not maintainable after completion of the insolvency proceeding before the NCLT.

11. Considering the discussion as aforesaid, this Court comes to the conclusion that the certificate proceeding before the Certificate Officer, Madhubani for recovery of the dues from the petitioner's company, is not maintainable.

12. Resultantly, the entire certificate proceedings bearing Certificate Case No. 1/2017-18 and the orders passed therein, are set aside including the warrant issued against the petitioner's company.

13. The respondent authorities shall be at liberty to recover the amount as per the provisions of Insolvency and Bankruptcy Code, 2016 ("IBC") in accordance with law before the appropriate forum, if any.

14. With the above directions, the present writ petition stands disposed of.

(Anil Kumar Sinha, J)

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