VRJ

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.3875 OF 2025

Himanshu Narendra Shah & Anr. … Petitioners
V/s.
Umendra Ramakant Mishra & Ors. … Respondents

Mr. B. Gada with Rudra Patel i/by Mahesh Thaker for the petitioners.

Mr. Mohit Bhansali for respondent Nos.1 and 2.

Mr. Rahul Gaikwad with Mr. Aqueel Patel, Ms. Nikita Abhyankar, Mr. Aman Jhawar, Ms. Vaishnavi M. and Mr. Virendra Kadam i/by Gravitas Legal for respondent No.5.

Ms. M. S. Srivastava for the State

CORAM : AMIT BORKAR, J.

DATED : MARCH 17, 2025

P.C.:

1. The present writ petition has been preferred by the petitioners, who are the Directors of a public limited company, assailing the legality and propriety of the award dated 1st November 2022, passed by the learned State Consumer Disputes Redressal Commission, Maharashtra. By the said award, the learned Commission has directed the petitioners, along with the other Directors and the company, to jointly and severally pay arrears of monthly compensation along with interest, as per prayer clause (a) of the application, until the final disposal of the complaint on merits. Consequent to the said award, the complainant instituted Miscellaneous Application Nos. 461 of 2022 and 468 of 2022 under Sections 71 and 72 of the Consumer Protection Act, 2019, seeking execution of the said order.

2. The principal contention advanced on behalf of the petitioners is that, being Directors of a public limited company, they cannot be held personally liable for the debts or liabilities of the company. The petitioners further assert that the company is presently undergoing the Corporate Insolvency Resolution Process ("CIRP") under the Insolvency and Bankruptcy Code, 2016 ("IBC"). In view of Section 14 of the IBC, which imposes a moratorium on proceedings against the corporate debtor, it is contended that no forum, including the learned Commission, can proceed against the company for any dues or claims that are covered under the provisions of the IBC. It is further contended that, by virtue of the overriding effect conferred by Section 238 of the IBC, the provisions of the IBC shall prevail over the Consumer Protection Act, 2019, and thus, the order passed by the learned Commission is unsustainable in law.

3. However, upon a meticulous perusal of the record and the impugned order dated 1st November 2022, it is evident that the learned Commission has unequivocally held petitioner Nos. 1 and 2 personally liable to pay the complainants' arrears of monthly compensation along with interest. Once such an order has attained finality and remains unchallenged, it is not open for the petitioners to contend, at the stage of execution, that they are not personally liable for the dues of the company. The well-settled principle of law is that the executing court or tribunal cannot go behind the decree or award, and its powers are confined to executing the order as it stands. The jurisdiction vested in the executing authority is limited to ensuring compliance with the order passed by the competent authority.

4. Furthermore, there is no material on record to suggest that the order dated 1st November 2022 is a nullity in the eyes of law. Even assuming arguendo that the order suffers from illegality, the same cannot be a ground to resist its execution before the executing authority under Sections 71 and 72 of the Consumer Protection Act, 2019. The only available remedy in such a case would be to challenge the order in accordance with the procedure established by law. In this backdrop, the contentions advanced by the petitioners, premised on the pendency of insolvency proceedings and the bar under Section 14 of the IBC, are without merit. It is pertinent to note that, in the absence of any specific finding in the impugned order indicating that the liabilities imposed on the petitioners fall within the exclusive domain of the CIRP, the said provisions of the IBC cannot be invoked as a shield to evade compliance with the order of the learned Commission. Therefore, in my considered view, the grounds urged by the petitioners do not warrant interference under the extraordinary supervisory jurisdiction of this Court under Article 227 of the Constitution of India.

5. At this stage, learned counsel for the petitioners submits that, given that the company is undergoing the insolvency process, the Resolution Professional ought to have been impleaded as a necessary party to the proceedings under Sections 71 and 72 of the Consumer Protection Act, 2019. This Court is of the view that such a grievance pertains to the domain of the executing authority before the learned Commission. Accordingly, no further orders are warranted in this regard.

6. In light of the aforesaid discussion, the present writ petition stands dismissed. No order as to costs.

7. Pending interlocutory application(s), if any, stand disposed of.

(AMIT BORKAR, J.)