

GAHC010127082024



THE GAUHATI HIGH COURT
(HIGH COURT OF ASSAM, NAGALAND, MIZORAM AND ARUNACHAL PRADESH)

Case No. : WP(C)/3241/2024

SANDEEP KUMAR BHAGAT
S/O LATE SANAT KUMAR BHAGAT, RESIDENT OF VERDAMAN
APARTMENT, JANKI PATH, GANESHGURI, GUWAHATI 781006, KAMRUP M
ASSAM
SUSPENDED DIRECTOR OF M/S SHREE SAI PRAKASH ALLOYS PRIVATE
LIMITED, M/S SHREE SAI ROLLING MILLS INDIA LIMITED, M/S SHREE SAI
SMELTERS INDIA LIMITED,

VERSUS

PUNJAB NATIONAL BANK AND 3 ORS
A PUBLIC SECTOR UNDERTAKING IN INDIA (PSU) WORKING UNDER THE
GOVT. OF INDIA, REGULATED BY THE RESERVE BANK OF INDIA ACT 1934
AND THE BANKING REGULATION ACT, 1949 HAVING ITS CORPORATE
OFFICE, PLOT NO. 4 SECTOR 10, DWARKA NEW DELHI 110075 DOING THE
BUSINESS OF BANKING AT ITS ZONAL SASTRA, UBI BUILDING, 2ND
FLOOR, H.B ROAD, PANBAZAR, GUWAHATI 781001 AND IS REPRESENTED
BY ITS AUTHORISED OFFICER

2:THE AUTHORISED OFFICER

PUNJAB NATIONAL BANK
ZONAL SASTRA
UBI BUILDING
2ND FLOOR
H.B ROAD
PANBAZAR
GUWAHATI 781001
KAMRUP (M) ASSAM

3:THE ASSISTANT GENERAL MANAGER

PUNJAB NATIONAL BANK
ZONAL SASTRA
UBI BUILDING
2ND FLOOR
H.B ROAD
PANBAZAR
GUWAHATI 781001
KAMRUP (M) ASSAM

4:SANDEEP KHAITAN
LIQUIDATOR FOR M/S SHREE SAI SMELTERS INDIA LIMITED
M/S SHREE SAI ROLLING MILLS INDIA LIMITED
M/S SHREE SAI PRAKASH ALLOYS PRIVATE LIMITED.
HAVING ITS ADDRESS AT 2ND FLOOR
SANMATI PLAZA
GS ROAD
ABC GUWAHATI ASSAM 78100

Advocate for the Petitioner : MR. D DAS SR. ADV

Advocate for the Respondent : SC, PNB

BEFORE
HONOURABLE MR. JUSTICE SOUMITRA SAIKIA

ORDER

Date : 25.06.2024

Heard Mr. D. Das, learned Senior Counsel assisted by Mr. N. Das, learned counsel for the petitioner. Also heard Mr. K.K.Nandi, learned counsel appears for respondent Nos. 1, 2 and 3.

2. The petitioner is a suspended Director of M/S Shree Sai Prakash Alloys Private Limited, M/S Shree Sai Rolling Mills India Limited and M/S Shree Sai Smelters India Limited. Pursuant to the orders passed by the National Company Law Tribunal (NCLT), Guwahati Branch, Guwahati vide order dated 25.01.2024, the Corporate Debtors, M/S Shree Sai Prakash Alloys Private Limited, M/S Shree Sai Rolling Mills India Limited and M/S Shree Sai Smelters India Limited, were

ordered to be liquidated with immediate effect. The Resolution Professional, who is arrayed as respondent No.4 was appointed as a Liquidator of the Corporate Debtors in terms of the consent given by him. In terms of the orders passed by the National Company Law Tribunal (NCLT), Guwahati Branch, Guwahati, the Liquidator proceeded for liquidation of the said companies and in respect of all the three companies' auction was initiated and the process of auction has been completed at the reserved price indicated in the advertisements calling for auction.

3. Learned Senior Counsel for the petitioner submits that he had already offered to the respondent Bank a fairly higher price as a onetime settlement for liquidating the debt of the companies to the Punjab National Bank by his representation. However, no response was forthcoming from the Punjab National Bank.

4. Upon coming to be informed about the auction called for during the process of liquidation being undertaken in terms of the order of the National Company Law Tribunal (NCLT), Guwahati Branch, Guwahati, petitioner is aggrieved by the fact that the reserved price is fairly lower than the price offered by the writ petitioner towards one time settlements. Being aggrieved, he has approached this Court as the forum available to him under the provisions of law, namely, the National Company Law Tribunal (NCLT), Guwahati Branch, Guwahati is stated to be in summer recess and will resume Court only from 1st July, 2024. He submits that as per his instructions the sale certificate of the auctioned properties have not been issued as yet and therefore *status quo* be directed to be maintained till the NCLT passes away orders on the applications proposed to be filed by the petitioner.

5. Upon such submissions being made by Mr. D. Das, learned Senior Counsel, the learned DSGI was requested to apprise the Court about the status of the NCLT, Guwahati. It was informed that the NCLT, Guwahati is indeed in summer recess and will resume Court from 1st July, 2024. However, he submits that in case of any urgent matter(s), an application can be filed before the Registry of NCLT.

6. Mr. K. K. Nandi, learned counsel appearing for the Bank submits that the entire liquidation process including the auction has been undertaken in terms of the directions of the NCLT, Guwahati and the same is as per the the parameters indicated in the orders itself. The sale certificates in respect of the auctioned properties have also been issued and the amount has already been appropriated to the account of the Corporate Debtors. He submits that under such circumstances, there is no occasion for the writ petitioner to approach this Court, more particularly, when the appropriate forum is the NCLT and not this Court. He therefore submits that the writ petition is not maintainable and the same should be dismissed *in limine*.

7. Learned counsels for the parties represented have been heard. The writ petition has been perused. It is seen that the Liquidation process is initiated under orders passed by the NCLT. For any further grievances of the petitioner, arising out of/relating to the Liquidation Process, the appropriate forum is the NCLT, Guwahati. Although it is submitted by the learned DSGI that in case of any urgency, an application may be filed before the Registry of the NCLT but there is no clarity as to whether the matters will be taken up by the NCLT, Guwahati or any other Bench during it's summer recess on such urgency expressed by the aggrieved parties. Under such circumstances, considering that the NCLT, Guwahati is the appropriate forum for redressal of the petitioner's

grievances and since it is stated to be closed due to summer recess and will resume again from 1st July, 2024, without expressing anything on merit, this writ petition is disposed of with a direction that the petitioner will approach the NCLT, Guwahati on 1st July 2024 when it resumes Court after summer recess and the parties in the writ petition, more particularly, the respondent bank as well as the liquidator, will maintain *status quo* till 3rd of July, 2024 or till the NCLT, Guwahati takes up the matter proposed to be filed by the petitioner whichever is earlier.

8. Writ petition, is accordingly, disposed of in terms of the above at the motion stage.

JUDGE

Comparing Assistant