

HIGH COURT FOR THE STATE OF TELANGANA AT HYDERABAD

TUESDAY, THE TWENTY THIRD DAY OF JANUARY

TWO THOUSAND AND TWENTY FOUR

:PRESENT:

THE HONOURABLE MRS JUSTICE SUREPALLI NANDA

IA No. 1 OF 2024

IN

WP NO: 33220 OF 2023

Between:

Mr. M. Suresh Kumar Reddy, (Suspended Director of M/s. Kranthi Edifice Private Limited) S/o. M. Prathap Reddy, Aged about 42 Years, 3-5-784/2/8/A, Sri Sai Heights, Opp: Pardagate, King Koti, Hyderabad – 500 029.

...Petitioner

AND

1. Canara Bank (formerly Syndicate Bank), Stressed Assets Management Branch, # 104, First Floor, Golden Edifice Complex, Khairatabad, Hyderabad – 500 004.
2. M/s. Kranthi Edifice Private Limited, Having its registered office at, 3-5-784/2/8/A., Sri Sai Heights, Opp: Pardagate, King Koti, Hyderabad – 500 029. Represented by its Resolution Professional Ms. CA Kalpana G.
3. Ms. CA Kalpana G, (IBBI/IPA-001/1P-P00756/2017-2018/11288) Resolution Professional for M/s. Kranthi Edifice Private Limited, MSKM Group, Flat No.1209, 11th Floor, Vasavi MPM Grand, Yellareddyguda Road, Ameerpet, Hyderabad – 38.

...Respondents

Petition under Section 151 CPC praying that in the circumstances stated in the affidavit filed in support of the writ petition, the High Court may be pleased to direct the respondents to not / conduct any further Meeting of Committee of Creditors (COC), pending disposal of WP.No.33220 of 2023, on the file of the High Court.

IA NO: 2 OF 2023

Petition under Section 151 CPC praying that in the circumstances stated in the affidavit filed in support of the writ petition, the High Court may be pleased to stay all further proceedings pursuant to the minutes of the meeting dt: 04.02.2020 held by the respondent No.1 bank, by suspending the minutes of meeting dt: 04.02.2020 and all the consequential proceedings, pending disposal of WP.No.33220 of 2023, on the file of the High Court.

The petition coming on for hearing, upon perusing the Petition and the affidavit filed in support thereof and the order of the High Court dated: 07.12.2023, 15.12.2023 and 08.01.2024 made herein and upon hearing the arguments of SRI. B. CHANDRASEN REDDY Senior Counsel representing M/s. CHANAKYA BASA Advocate for the Petitioner and M/s. DISHIT BHATTACHARJEE Advocate for the Respondent No.1, the Court made the following.

ORDER:

Heard learned Senior counsel Mr. B. Chandrasen Reddy, appearing on behalf of the petitioner.

This Court ordered Notice before admission in the matter on 07.12.2023 but still as on date no counter affidavit has been filed by the respondents.

On 15.12.2023, this court passed interim orders observing as under:

"Heard Sri B.Chandrasen Reddy, learned Senior Counsel appearing on behalf of petitioner.

Notice before admission has been ordered by this Court on 07.12.2023, but so far no counter affidavit has been filed by the respondents:

"It is the specific case of the petitioner that the petitioner has been declared as fraud without issuing any notice to the petitioner. It is further case of the petitioner that only through the counter affidavit filed in W.P.No.14217 of 2022, the petitioner came to know and had the knowledge about the petitioner company being declared as fraud.

The relevant portion of the counter affidavit filed on behalf of the respondent- Canara Bank reads as under:-

"That, based on available information and documents submitted by the Petitioner Company, the auditor Respondent bank with their observations. That, as per report submitted by Forensic auditor and observations mentioned in the Audit report, the Petitioner Company falls under the category of fraud under section 447 of the companies act. Hence, the Respondent Bank declared the Petitioner Company as fraud in the meeting held on 04.02.2020 and reported to CRILIC on 04.02.2020 and reported to 20.02.2020."

Sri B. Chandrasen Reddy, learned Senior Counsel for the petitioner refers to the Judgment of the Hon'ble Apex Court dated 27.03.2023 passed in "State Bank of India Vs. Rajesh Agarwal" reported in 2023 SCC Online SC 342, and placed reliance in particular to paras 79, 80 and 81 of the said judgment", and contends that the petitioner is entitled for the relief as prayed for in the present writ petition.

Taking into the aforesaid facts and circumstances of the case, there shall be stay of all further proceedings pursuant to the minutes of the meeting dated 04.02.2020 held by respondent No.1 - bank for a period of four (04) weeks from today."

The present I.A.No.1 of 2024 in W.P.No.33220 of 2023 has been filed seeking direction to the respondents not to conduct any further meeting of committee of pending disposal of the main writ petition."

It is specifically averred by the petitioner at paragraph No.7 of the supporting affidavit filed in I.A.No.1 of 2024 in the present writ petition as under:

The Respondent No.1 bank and the Respondent No.3 RP, despite being aware of the pending fraud proceedings and its consequences on the petitioner have not demonstrated by way of counter that due process was followed in classifying the Petitioner and Respondent No.2 company account as fraud till date whereas on the other hand they are conducting COC meetings to finalise resolution plan with a *malafide* intention to sell the 2nd Respondent company to some 3rd party at a throw away price while depriving the Petitioner to revive his own company by keeping the fraud proceedings pending. That this Hon'ble Court vide order dt. 07.12.2023 ordered for notice in the above writ petition and by way of memo proof of service was filed on 11.12.2023 and thereupon the Hon'ble Court was pleased to grant stay on 15.12.2023. The Respondent No.1 Bank has entered presence on 20.12.2023 and when the matter came up on 08.01.2024, the Respondent No.1 bank sought time to file counter and accordingly this Hon'ble Court was pleased to extend the interim orders. That it's been over one month and the Respondent No.1 has shown no bonafides to demonstrate that due process of law was followed in classifying the account of Petitioner and the Respondent No.1 as fraud whereas on the other hand the Respondent No.1 along with Respondent No.3 despite being fully aware of the stay order dt. 15.12.2023 granted by this Hon'ble Court has conducted 12th COC meeting on 04.01.2024, "to discuss and finalise the mode of calling resolution applicants for negotiation purpose since the count of resolution applicants is high" as item no.4. Now, the Respondent No. 3 has called for the 13th COC Meeting of Committee of Creditors on 23.01.2024 at 3.30 PM wherein in one of the agenda item it is mentioned that, "to discuss and finalise the mode of calling the resolution applicants for negotiations purpose since the count of resolution applicants is high From the above it is clear that,

1st Respondent in collusion with 3rd Respondent are wilfully avoiding to demonstrate their *bonafides* before this Hon'ble Court that they have followed due process of law before classifying the account of Petitioner and the Respondent No.1 as fraud whereas on the other hand the Respondent No.1 along with Respondent No.3 is keen to sell the Respondent No.1 company at throw away price to a 3rd party for reasons best known to them while depriving the Petitioner to revive his own company and the Petitioner will be put to irreparable loss if the Respondent No.3 is allowed to proceed with conducting COC meetings."

Respondent No.3 upon instructions submits that the meeting scheduled today at 3.30 is only to discuss and finalise the mode of calling the resolution applicants for negotiation purpose since the count of resolution applicants is high and it is not for any other purpose.

Bringing the said submission on record and taking into consideration the specific averments made by the petitioner at para No.7 of the supporting affidavit filed in support of I.A.No.1 of 2024 in the present writ petition, it is observed that the respondents shall not proceed with conduct of any further meeting of Committee of Creditors for a period of four (04) weeks from today.

Interim orders granted earlier by this Court on 15.12.2023 shall stand extended for a period of six (06) weeks.

Post on 08.02.2024.

**SD/- A.V.S.PRASAD
ASSISTANT REGISTRAR**

//TRUE COPY//


SECTION OFFICER

To,

1. One CC to M/s. CHANAKYA BASA, Advocate [OPUC].
2. One spare copy
ZEE

HIGH COURT

SNJ

DATED:23/01/2024

POST ON 08.02.2024

ORDER

JA.No. 1 OF 2024
En

WP.No.33220 of 2023

INTERIM ORDER EXTENDED

