

16509/23

Srinandan K.



FORM III A
IN THE HIGH COURT OF KARNATAKA, BENGALURU

WRIT PETITION NO. 17402/2023 (GM-RES)

(NOTICE UNDER RULE 13 (a) PROVISO)

PETITIONER

MR. BAASKARAN .S S/O A.V. SUBRAMANIAN DEEKSHADAR
DIRECTOR OF TARUN REALTORS PRIVATE LIMITED,
REGISTERED UNDER COMPANIES ACT 1956,
R/AT APT 412, SOBHA QUARTZ, SARJAPUR ORP,
BELLANDUR, BANGALORE – 560 103.

(BY SRI/SMT.: SRINANDAN .K, ANISH ACHARYA – ADVS., SK LAW CHAMBERS)
VS

RESPONDENTS

1. THE REGISTRAR,
NATIONAL COMPANY LAW TRIBUNAL,
BANGALORE BENCH, RAHEJA TOWERS,
12TH FLOOR, M.G. ROAD, BANGALORE – 560 001.
2. ACE ENVIRO TECH PVT. LTD.,
REGISTERED UNDER COMPANIES ACT 1956,
BASAVA SADANA NO.117, 3RD FLOOR, COLES ROAD,
FRASER TOWN, BANGALORE – 560 005.
REPRESENTED BY ITS DIRECTOR.
3. MR. VENKATA SUBBARAO KALVA
INTERIM RESOLUTION PROFESSIONAL IN
CP (IB) NO.72/BB/2021-NCLT-BANGALORE,
BEARING REGISTRATION NO.
IBBI/IPA-002/IP-N00179/2017-2018/10655,
HAVING REGISTERED OFFICE AT: 41/1,
2ND FLOOR, 11TH CROSS, 8TH MAIN,
JAYANAGAR 2ND BLOCK, BANGALORE – 560 011.

(SRI. ATUL MADAVAN, ADV., FOR R2)

Whereas, a Writ Petition filed by the above named petitioner under Article 226 & 227 of the Constitution of India, as in the copy annexed here unto, has been registered by this Court.

Notice is hereby given to you to appear in this Court in person or through an Advocate duly instructed or through some one authorized by law to act for you in this case, at 10.30 A.M. in the forenoon within 10 days of service of this notice, to show cause why rule nisi should not be issued.

If you fail to appear on the said date or any day thereafter, the Court may proceed to pass such orders as it may think fit.

-: 2 :-

Pending issue of Rule nisi in the aforesaid Writ Petition it is hereby ordered by
this Court on

WEDNESDAY THE 16TH DAY OF AUGUST 2023

BY HON'BLE MR. JUSTICE G. NARENDAR
AND
BY HON'BLE MR. JUSTICE VIJAYKUMAR A. PATIL

as follows :-
(VIDEO CONFERENCING/PHYSICAL HEARING)

ORDER

XEROX COPY OF THE ENTIRE ORDER DATED 16/08/2023 IS ENCLOSED
HEREWITH SEPARATELY.



PS-26082023.05

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

[MR. BAASKARAN. S VS. THE REGISTRAR AND OTHERS]

GNJ & VAPJ:

16.08.2023

(VIDEO CONFERENCING / PHYSICAL HEARING)

ORDER

Heard the learned Senior counsel Sri. M. S. Shyam Sunder along with Sri. Srinandan k, learned counsel for the petitioner and the learned counsel Sri. Atul Madavan for respondent No.2.

Learned Senior counsel would take the Court through Section 9 of the Insolvency and Bankruptcy Code, 2016 and would submit that the demand is one that falls within the prohibited period under Section 10A of the IBC and the Tribunal could not have taken up the proceedings for consideration as the Tribunal stood divested of jurisdiction in view of the bar under Section 10A of the IBC. Section 10A of the IBC reads as under:-

"[10A. Suspension of initiation of corporate insolvency resolution process.-

Notwithstanding anything contained in sections 7, 9 and 10, no application for initiation of corporate insolvency resolution process of a corporate debtor



shall be filed, for any default arising on or after 25th March, 2020 for a period of six months or such further period, not exceeding one year from such date, as may be notified in this behalf:

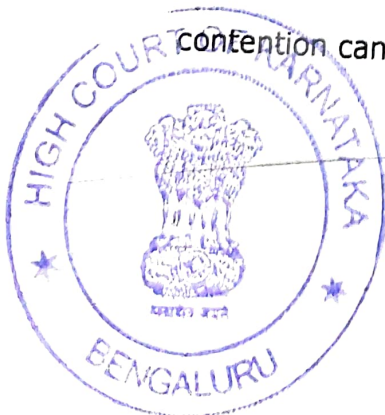
PROVIDED that no application shall ever be filed for initiation of corporate insolvency resolution process of a corporate debtor for the said default occurring during the said period.

Explanation.- For the removal of doubts, it is hereby clarified that the provisions of this section shall not apply to any default committed under the said sections before 25th March, 2020.]”

He would further submit that no notice of demand was served upon them and even assuming that notice is served, the sum due would amount to a default only on passage of ten days from the date of service of notice or demand as stipulated under Section 9 of the IBC. That only after passage of ten days can the demand be enforced by way of an application under Section 9 of the IBC.

Learned counsel for respondent No.2 would submit that there is likelihood of settlement and prays for time.

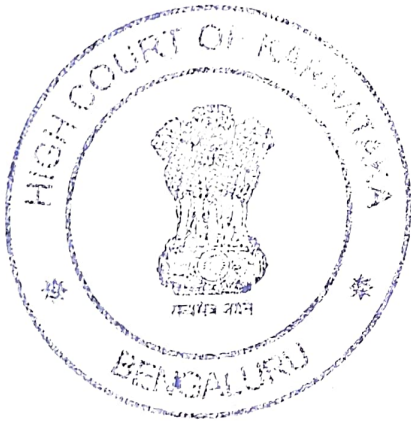
In that view of the matter, we find some substance in the contention canvassed on behalf of the petitioner.



Hence, there shall be stay of further proceedings in CP(IB) No.72/BB/2021 vide Annexure-A including the process by respondent No.3 IRP.

List on 30.08.2023.

A copy of the writ petition be furnished to learned counsel for respondent No.2.



Sd/-
JUDGE

Sd/-
JUDGE

Copy

D/c Menobai. r. n.
Assistant Registrar 26/8
High Court of Karnataka
Bangalore - 560 001

26/8

Section Officer
High Court of Karnataka
Bangalore - 560 001

17/8/22
The date on which the application was
filed.....
The date on which charges and addl.
charges. If any, are called for.....
The date on which the charges and addl.
charges. If any, are deposited.....
The date on which the copy is ready
for delivery.....
The date on which copy is delivered to the
adversely affected party.....

26/8/23