

**(SHOW CAUSE NOTICE BEFORE ADMISSION)
HIGH COURT FOR THE STATE OF TELANGANA AT HYDERABAD
(Special Original Jurisdiction)**

MONDAY, THE TWENTY FIRST DAY OF SEPTEMBER TWO THOUSAND AND TWENTY
:PRESENT:

**THE HONOURABLE THE CHIEF JUSTICE SRI RAGHVENDRA SINGH CHAUHAN
AND
THE HONOURABLE SRI JUSTICE B.VIJAYSEN REDDY
WRIT PETITION NO: 15439 OF 2020**

Between:

Mr. Sabbineni Surendra, S/o. Sri Sabbineni Papaiah

...Petitioner

AND

1. Union of India, Ministry of Corporate Affairs, A Wing, Shastri Bhawan, New Delhi - 110 001 Represented by its Secretary.
2. Union of India, Ministry of Law and Justice, A Wing, Shastri Bhawan, New Delhi New Delhi - 110 001 Represented by its Secretary.
3. Insolvency and Bankruptcy Board of India, 7th Floor, Mayur Bhawan, Shankar Market, Connaught Circus, New Delhi - 110001. Represented by its Chairman.
4. M/s Coastal Projects Ltd., A Company incorporated under the Companies Act, 1956, Having its registered office at, Plot No. 237, 2nd Floor, Bapuji Nagar, Bhubaneswar, Khurda, Orissa - 751 009, Having its corporate office at Plot No.304-O, Road No. 78, Film Nagar, Jubilee Hills, Hyderabad - 500 033 Represented by Liquidator Mr. Ravi Sankar Devarakonda.
5. The State Bank of India, Stressed Assets Management Branch-II, D.No.3-4-1013/A, 1st Floor, CAC, TSRTC Bus station, Kachiguda, Hyderabad - 500 027, Telangana, Represented by its Authorized Representative.

...Respondents

WHEREAS the Petitioner above named through his Advocate M/s P. VIKRAM presented this Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the affidavit filed therewith, the High Court may be pleased to issue a Writ, Order or Direction, more in the nature of a Writ of Mandamus,

- (a) Declaring the notification bearing S.O.4126(E) dated: 15/11/2019 issued by Respondent No.1 as unconstitutional.
- (b) Declaring Sections 95, 96, 97, 99, 100 and 101 of the Insolvency and Bankruptcy Code, 2016, insofar as they apply to personal guarantors of corporate debtors as unconstitutional.
- (c) Declaring the Insolvency and Bankruptcy (Application to Adjudicating Authority for Insolvency Resolution Process for Personal Guarantors to Corporate Debtors) Rules, 2019 issued by way of notification bearing G.S.R.854 (E) dated: 15/11/2019 as unconstitutional.
- (d) Declaring the Insolvency and Bankruptcy (Application to Adjudicating Authority for Insolvency Resolution Process for Personal Guarantors to Corporate Debtors) Regulations, 2019 issued by way of notification bearing No.IBBI/2019-20/GN/REG050 dated: 20/11/2019 as unconstitutional
- (e) Declaring the rules 7 and 3(e) of the of the Insolvency and Bankruptcy (Application to Adjudicating Authority for Insolvency Resolution Process for Personal Guarantors to Corporate Debtors) Rules, 2019, being ultra vires Section 95 of the Code

- (f) Declaring the notice dated: 19/08/2020 issued by the Respondent No.5 bearing reference no. SAMB: HYD: MRK: 20-21: 460 as illegal, arbitrary, unconstitutional and without jurisdiction and consequently set aside the same.

AND WHEREAS the High Court upon perusing the petition and affidavit filed therein and upon hearing the arguments of M/s P. VIKRAM, Advocate for the Petitioner, directed issue notice to the Respondent Nos.3 to 5, herein returnable in four weeks to show cause as to why this WRIT PETITION should not be admitted.

You viz:

1. The Chairman, Insolvency and Bankruptcy Board of India, 7th Floor, Mayur Bhawan, Shankar Market, Connaught Circus, New Delhi - 110001.
2. Mr. Ravi Sankar Devarakonda Liquidator, M/s Coastal Projects Ltd., A Company incorporated under the Companies Act, 1956, Having its registered office at, Plot No. 237, 2nd Floor, Bapuji Nagar, Bhubaneswar, Khurda, Orissa - 751 009 and Having its corporate office at Plot No.304-O, Road No. 78, Film Nagar, Jubilee Hills, Hyderabad - 500 033.
3. The Authorized Representative, State Bank of India, Stressed Assets Management Branch-II, D.No.3-4-1013/A, 1st Floor, CAC, TSRTC Bus station, Kachiguda, Hyderabad - 500 027, Telangana.

are directed to show cause as to why in the circumstances set out in the petition and the affidavit filed therewith (copy enclosed) this WRIT PETITION should not be admitted.

IA NO: 1 OF 2020

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 grant stay of all further proceedings pursuant to the Impugned Notice dated: 19/08/2020 issued by the Respondent No. 5/SBI bearing reference no.SAMB: HYD MRK 20-21:460, pending disposal of WP.No.15439 of 2020, on the file of the High Court.

THE COURT MADE THE FOLLOWING ORDER:

Mr. Namavarapu Rajeswara Rao, the learned Assistant Solicitor General, is directed to accept notice on behalf of the respondent Nos.1 and 2.

Issue notice to the respondent Nos.3, 4 and 5 returnable in four weeks.

Mr. P. Vikram, the learned counsel for the petitioner, is also permitted to take out personal notice to the respondent Nos.3, 4 and 5 by RPAD and to file proof of service within four weeks.

The operation of the impugned notice dated 19.08.2020, issued by the respondent No.5, is hereby stayed till the next date.

List this case after four weeks.

//TRUE COPY//

SD/- .K.SHYLESHI
ASSISTANT REGISTRAR


SECTION OFFICER

To,

1. The Secretary, Union of India, Ministry of Corporate Affairs, Union of India, A Wing, Shastri Bhawan, New Delhi - 110 001.
2. The Secretary, Ministry of Law and Justice, Union of India, A Wing, Shastri Bhawan, New Delhi New Delhi - 110 001 (RR 1 & 2 by RPAD).

3. The Chairman, Insolvency and Bankruptcy Board of India, 7th Floor, Mayur Bhawan, Shankar Market, Connaught Circus, New Delhi - 110001.
4. Mr. Ravi Sankar Devarakonda Liquidator, M/s Coastal Projects Ltd., A Company incorporated under the Companies Act, 1956, Having its registered office at, Plot No. 237, 2nd Floor, Bapuji Nagar, Bhubaneswar, Khurda, Orissa - 751 009 and Having its corporate office at Plot No.304-O, Road No. 78, Film Nagar, Jubilee Hills, Hyderabad - 500 033.
5. The Authorized Representative, State Bank of India, Stressed Assets Management Branch-II, D.No.3-4-1013/A, 1st Floor, CAC, TSRTC Bus station, Kachiguda, Hyderabad - 500 027, Telangana (RR 3 to 5 by RPAD along with a copy of petition and affidavit).
6. One CC to M/s. P. VIKRAM, Advocate [OPUC].
7. One CC to SRI. N. RAJESHWAR RAO (AST SOL GEN), Advocate [OPUC].
8. Two spare copies
ZEE



HIGH COURT

HCJ & BVRJ

DATED:21/09/2020

NOTE: LIST THIS CASE AFTER FOUR WEEKS

NOTICE BEFORE ADMISSION

WP.No.15439 of 2020

INTERIM STAY

