

IN THE SUPREME COURT OF INDIA  
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO(S).1681/2016

MORARJEE TEXTILES LTD. REPRESENTED  
THROUGH MR. RAVI SETHIA,  
INTERIM RESOLUTION PROFESSIONAL

APPELLANT(S)

VERSUS

UNION OF INDIA & ORS.

RESPONDENT(S)

O R D E R

1. IA No.89038/2024 seeking permission to amend the cause title and IA No.108617/2024 seeking deletion of the second appellant from the array of the parties are allowed.

2. Heard the learned counsel appearing for the parties.

3. At present, the Interim Resolution Professional is representing the first appellant which is under the Corporate Insolvency Resolution Process (CIRP).

4. The second respondent-the Micro and Small Enterprises Facilitation Council, Nagpur, made an award accepting the claim made by the third respondent against the first appellant. Instead of availing the remedy under Section 19 of the Micro, Small and Medium Enterprises Development Act, 2006 (for short, "the 2006 Act"), the appellant(s) adopted the remedy of filing a writ petition under Article 226 of the Constitution of India. The impugned order dated 5<sup>th</sup> July, 2012 is an interim order. The High

Signature Not Verified  
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ASHI K. ROSE  
Date: 2025.02.18  
19:41:16 IST  
Reason: 

Court expressed a view that as the appellant(s) had invoked an extraordinary jurisdiction of the High Court under Article 226 of

the Constitution of India without taking recourse to the statutory remedy, the appellant(s) cannot be exempted from complying with the mandatory requirement of Section 19 of the 2006 Act. Therefore, a direction was issued to the appellant(s) to deposit a sum equivalent to 75% of Rs.13,40,00,000/- (Rupees Thirteen Crore and Forty Lakh) within a period of three months as a condition for stay. When this Appeal as a Special Leave Petition came up before this Court on 28<sup>th</sup> September, 2012, this Court passed the following order:

"Issue notice returnable six weeks.

Dasti service, in addition, is permitted.

In the meanwhile, the impugned order of the High Court insofar as it directs deposit of 75 per cent of the amount in terms of the award, shall remain stayed subject to the condition that the petitioners shall deposit 60 per cent of the principal amount by way of a bank draft or furnish a bank guarantee of a nationalised bank for an amount representing 60 per cent of the principal amount in favour of the Registrar, Bombay High Court, Nagpur Bench."

5. After having heard the learned counsel appearing for the first appellant, we find no error in the impugned order. The submission of the learned counsel appearing for the first appellant is that there is an issue of jurisdiction involved as the third respondent was not an MSME and that is the reason why the appellant(s) invoked the extraordinary jurisdiction under Article 226 of the Constitution of India. He would, therefore, submit that without considering the existence of a *prima facie* case, the High Court ought not to have imposed an onerous condition of deposit of a sum equivalent to 75% of the awarded amount of Rs.13,40,00,000/- (Rupees Thirteen Crore Forty Lakh).

6. The efficacious remedy of taking recourse to Section 19 of the 2006 Act was available to the appellant(s). Obviously to avoid the condition of pre-deposit under Section 19 of the 2006 Act, that the recourse was taken to the writ jurisdiction. It is pertinent to note that the High Court has not dismissed the writ petition on the ground of availability of the efficacious remedy. The High Court has only put a condition of deposit of a sum equivalent to 75% of the amount covered by the Award as a condition for stay. The Award is in the nature of a money decree and, therefore, we find absolutely no error in the view taken by the High Court.

7. We are informed that the High Court has finally heard the pending writ petition and in November 2024, the judgment has been reserved which is not pronounced till date.

8. This Court *vide* order dated 28<sup>th</sup> September, 2012 granted stay to the appellant(s) subject to furnishing a bank guarantee which has been accordingly furnished by the appellant(s). The Registry of this Court is directed to encash the said bank guarantee furnished by the appellant(s) forthwith and transfer the amount of proceeds to the High Court of Judicature at Bombay, Nagpur Bench. As the judgment has been reserved by the High Court, we direct the Registrar (Judicial) of the High Court of Judicature at Bombay, Nagpur Bench, to bring this order to the notice of the concerned Bench and the fact that the amount of bank guarantee has been transferred to the High Court. This will enable the High Court to pass appropriate order regarding disbursement/withdrawal of the

bank guarantee amount after hearing the parties. Till the time the High Court deals with the issue of disbursement/withdrawal of the bank guarantee amount, the bank guarantee amount shall be invested by the High Court in an interest bearing fixed deposit with any nationalised bank.

9. With the above observations, the Appeal is dismissed.

10. A copy of this order shall be forwarded by the Registry to the Registrar (Judicial) of the High Court of Judicature at Bombay, Nagpur Bench.

.....J.  
(ABHAY S. OKA)

.....J.  
(UJJAL BHUYAN)

NEW DELHI;  
FEBRUARY 13, 2025.

S U P R E M E C O U R T O F I N D I A  
R E C O R D O F P R O C E E D I N G S

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RESPONDENT(S)

[PART HEARD BY HON'BLE ABHAY S. OKA AND HON'BLE UJJAL BHUYAN, JJ.]  
(IA No. 108617/2024 - ADDITION / DELETION / MODIFICATION PARTIES,  
IA No. 89038/2024 - AMENDMENT IN CAUSE TITLE, IA No. 48850/2019 -  
APPLICATION FOR PERMISSION AND IA No. 186099/2023 - EARLY HEARING  
APPLICATION)

Date: 13-02-2025 This matter was called on for hearing today.

CORAM: HON'BLE MR. JUSTICE ABHAY S. OKA  
HON'BLE MR. JUSTICE UJJAL BHUYAN

For Appellant(s): Mr. Rajesh J, Adv.  
Mr. Dcosta Ivo Manuel Simon, AOR

For Respondent(s): Mr. Ankur Talwar, Adv.  
Mr. Rajat Nair, Adv.  
Mrs. Sairica Raju, Adv.  
Mr. Ashutosh Gadhe, Adv.  
Mr. Shreeyash U Lalit, Adv.  
Mr. Amrish Kumar, AOR

Mr. Gaurav Pachnanda, Sr. Adv.  
Ms. Shreya Bansal, Adv.  
Ms. Nikita Jaitly, Adv.  
Ms. Khushbu Chhajad, Adv.  
Mr. Sourav Singh, Adv.  
Mr. R. Ilam Paridi, AOR

UPON hearing the counsel the Court made the following  
O R D E R

The Appeal is dismissed in terms of the signed order.

Pending applications stand disposed of accordingly.

(ASHISH KONDLE)  
ASTT. REGISTRAR-cum-PS

(AVGV RAMU)  
COURT MASTER (NSH)

[THE SIGNED ORDER IS PLACED ON THE FILE]