IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

WRIT PETITION (L) NO.31679 OF 2025

Shripal Sevantilal Morakhia ...**Petitioner**

Versus

National Company Law Tribunal, Mumbai Bench, Thru. The Registrar (NCLT) & Ors. ...**Respondents**

Mr. Pratik Sarkar and Ms. Khirbha S.G. i/b. Vidhi Legal for the Petitioner.

Mr. Shyam Kapadia, Thru V.C., with Mr. Kunal Kaul and Ms. Fatema Kachwalla and Mr. Virgil Braganza i/b. JSA for Respondent No.2.

Mr. Bhalchandra Palav with Mr. Aniket Dighe and Ms. Pinky Pawar for Respondent No.3.

Mr. Ashish Kamat, Senior Counsel with Anirudh Gambhir, Mr. Madhav Kanoria with Surbhi Pareek i/b. Cyril Amarchand Mangaldas for Respondent No.4.

CORAM : R.I. CHAGLA AND FARHAN P. DUBASH, JJ.

DATE : 8TH OCTOBER, 2025.

ORDER :

1. By this Writ Petition, the Petitioner has sought quashing and setting aside the Order dated 4th August, 2025 passed in Interim Application No.1985 of 2025 in C.P. (IB)-935 (MB)/2020 by which

the matter has been 'Reserved for Order'. There are further prayers including the prayer for staying of implementation of the Resolution Plan approved by Respondent No.1 vide its Order dated 7th May, 2025 and a direction to Respondent No.1 for expeditious disposal of the Application bearing No. IA (I.B.C.)/1985/MB/2025.

2. The learned Counsel appearing for the Petitioner has referred to Rule 150 of the National Company Law Tribunal Rules 2016, ("said Rules") wherein it is provided that the Tribunal, after hearing the Applicant and Respondent, shall make and pronounce an order either at once or, as soon as thereafter as may be practicable but not later than thirty days from the final hearing. He has submitted that the said Rule is applicable. He has placed reliance upon the judgment of the Division Bench of this Court in ***Kamal K. Singh Vs. Union of India, Through the Ministry of Corporate Affairs and Ors.***[1] at paragraph 65 in this context.

3. Mr. Ashish Kamat, the learned Senior Counsel appearing for the Respondent No.4 has submitted that there is an appellate remedy under Section 61 of the Insolvency and Bankruptcy Code,

1 2019 SCC OnLine Bom 5609.

("IBC") 2016. He has submitted that the appellate remedy has been availed by the Petitioner and Company Appeal (At) (Ins.) No.944 of 2025 has been filed in which Interim Application No.3668 of 2025 has been taken out. He has submitted that an Order has been passed by the National Company Law Appellate Tribunal ("NCLAT") on 21st August, 2025. In the said Order the submission of the Respondent therein that the Interim Application No.1985 of 2025 has been filed by the Appellant / Petitioner herein and the matter has been reserved for Order on 4th August, 2025, which Order has been uploaded is recorded. Further, the submission of the Appellant that in the Application, pleadings were never completed has also been recorded. The NCLAT was of the view that since the Application is filed by the Appellant in respect of an Order having been reserved, it is appropriate that order when passed may also be brought on record by the parties in the Appeal.

4. Mr. Kamat has submitted that the NCLAT is seized of the matter and in view of the appellate remedy having been availed of by the Petitioner, this Court ought not to exercise its writ jurisdiction.

5. Mr. Kamat has submitted that the judgment relied upon

by the Petitioner viz. ***Kamal K. Singh (Supra)*** at paragraph 80 has referred to the said Rule 150 and held that, the Division Bench is not concerned with a situation where the time limit is not adhered to. The Division Bench had thus not gone into the issue of applicability of Rule 150 to a case of an Order having been reserved but not been pronounced within 30 days.

6. We have considered the submissions. The present Petition impugnes an Order dated 4th August, 2025 which is nothing but reserving the matter for order.

7. Thus, the Order reserved has not yet been pronounced. Accordingly, the Order dated 4th August, 2025 is not amenable to challenge in a Writ Petition under Article 226 of the Constitution of India.

8. Further, the Petitioner has already availed of the appellate remedy under Section 61 of the IBC, 2016 in respect of the resolution plan of Respondent No.1 approved vide order dated 7th May, 2025 which has been challenged. The very same challenge has been raised in the present Petition. The NCLAT by Order dated 21st

August, 2025 has gone into the issue of the Order dated 4th August, 2025 having reserved the Order in Interim Application No.1985 of 2025. The NCLAT has held that it would be appropriate for the Order upon being pronounced to be brought on record by the parties in the Appeal before the NCLAT.

9. Having considered that the Petitioner has availed its appellate remedy under Section 61 of the IBC 2016, this Court does not consider it appropriate to exercise its writ jurisdiction.

10. The learned Counsel for the Petitioner though having apprised of this Court's view on non maintainability of the Petition, has insisted on going with the arguments on merits and thus wasting this Court's time. Accordingly, we consider it fit to impose cost of Rs.50,000/- and which shall be paid to Indian Red Cross Society, Mumbai, Adams Wylie Memorial Building, 8th Floor, 1877, Dr. Anandrao Nair Marg, Red Cross Street, Mumbai Central (E), Mumbai 400 011.

11. The Writ Petition is accordingly disposed of.

[FARHAN P. DUBASH, J.] **[R.I. CHAGLA J.]**