

**IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION**

Civil Appeal No _____ of 2024
[Diary No 41691 of 2024]

Dickey Alternative Investment Trust and Another

Appellants

Versus

Ahmed Buhari and Others

Respondents

ORDER

1 Permission to file the appeal without certified/plain copy of the impugned order is granted. A copy of the order which has since been made available was produced during the hearing.

2 The appeal arises from an order dated 6 September 2024 of the National Company Law Appellate Tribunal¹.

3 We have heard Mr Mukul Rohatgi and Dr Abhishek Manu Singhvi, senior counsel appearing on behalf of the appellant. Mr Kapil Sibal, Mr C Aryama

1 "NCLAT"

Sundaram and Mr Dama Seshadri Naidu, senior counsel respectively appeared for the contesting respondents.

- 4 By the impugned order dated 6 September 2024, the NCLAT has issued the following directions:

“For a period of one week or till the next date, the Resolution Professional will continue to operate the plant as before and the “status quo” as on date, qua the Resolution Professional would be maintained, particularly for all the financial transactions.”

- 5 Mr Mukul Rohatgi, senior counsel for the appellants submitted that the Committee of Creditors approved the Resolution Plan by a 97% vote on 22 November 2023. The plan was approved by the National Company Law Tribunal on 30 August 2024. According to the appellants, on 31 August 2024, an amount of Rs 3335 crores has been paid to sixteen lenders and possession was taken.
- 6 The appeal was filed before the NCLAT on 3 September 2024 and the impugned order has been passed on 6 September 2024.
- 7 During the course of the hearing, reliance has been placed on relevant provisions of the Expression of Interest (EoI) and the Request for Resolution Plan (RFRP) documents. Since the proceedings are pending before the NCLAT, we are desisting from making any observation on the interpretation of the conditions on which reliance has been placed by the rival parties.

However, *prima facie*, at this stage we are of the view that the impugned order of the NCLAT suffers from an internal inconsistency in that while on the one hand, the NCLAT directed that for a period of one week or till the next date “the Resolution Professional will continue to operate the plant as before”, at the same time, it directed that “the *status quo* as on date qua the Resolution Professional would be maintained”.

- 8 The first part of the above direction indicates that the *status quo ante* would have to be restored, while the second part of the above direction seems to indicate that the *status quo* as on date, namely, as on 6 September 2024, would be maintained. The proceedings have been listed before the NCLAT on 18 September 2024.
- 9 Mr C Aryama Sundaram, senior counsel submitted that an application under Section 12A of the Insolvency and Bankruptcy Code 2016 was filed by a shareholder of the Corporate Debtor. The application was dismissed by the NCLT against which an appeal has been filed.
- 10 During the course of the hearing, it has been stated on both sides that no adjournment would be sought before the NCLAT and, as a matter of fact, Mr Kapil Sibal, senior counsel for the respondent submitted that should the NCLAT be inclined to pre-pone the hearing, the respondents would be ready and willing to go on with the hearing before the NCLAT.

- 11 In view of the above background and particularly, having due regard to the inconsistency in the ad-interim order which has been noted above, we are of the view that the following order would sub-serve the ends of justice:
- (i) The parties shall in terms of the statement which has been made on their behalf before this Court, cooperate with the NCLAT when the proceedings are taken up on 18 September 2024 for disposal of the appeal on merits; and
 - (ii) Until the appeal is heard and disposed of by the NCLAT, the impugned direction of the NCLAT shall not require that the *status quo ante* should be restored. The *status quo* as was operating when the order was passed on 6 September 2024 shall continue to remain in operation. This shall however be subject to two conditions:
 - (a) The successful resolution applicant shall not dismantle the plant or create any third party rights; and
 - (b) No steps shall be taken to alienate the plant or create any financial obligations except in the ordinary course of the business.
- 12 The impugned order of the NCLAT shall stand modified in the above terms. The present order shall not be construed by the NCLAT as any expression on the merits of the rival contentions which are kept open. No equities will be created by the present order.

13 The appeal is accordingly disposed of.

14 Pending applications, if any, stand disposed of.

.....CJI.
[Dr Dhananjaya Y Chandrachud]

.....J.
[J B Pardiwala]

.....J.
[Manoj Misra]

New Delhi;
September 12, 2024
CKB

ITEM NO.20

COURT NO.1

SECTION XVII

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

CIVIL APPEAL Diary No.41691/2024

(Arising out of impugned final judgment and order dated 06-09-2024 in CAAT (CH) (I) No. 325/2024 passed by the National Company Law Appellate Tribunal, Chennai)

DICKEY ALTERNATIVE INVESTMENT TRUST & ANR.

Petitioner(s)

VERSUS

AHMED BUHARI & ORS.

Respondent(s)

(With IA No.208571/2024 - EX-PARTE STAY, IA No.208575/2024 - EXEMPTION FROM FILING C/C OF THE IMPUGNED JUDGMENT, IA No.208570/2024 - PERMISSION TO FILE ADDITIONAL DOCUMENTS/FACTS/ANNEXURES and IA No.208573/2024 - PERMISSION TO FILE SLP WITHOUT CERTIFIED/PLAIN COPY OF IMPUGNED ORDER)

Date : 12-09-2024 These matters were called on for hearing today.

CORAM :

HON'BLE THE CHIEF JUSTICE
HON'BLE MR. JUSTICE J.B. PARDIWALA
HON'BLE MR. JUSTICE MANOJ MISRA

For Petitioner(s) Mr. Mukul Rohatgi, Sr. Adv.
Dr. A.M. Singhvi, Sr. Adv.
Mr. Mahesh Agarwal, Adv.
Mr. Arshit Anand, Adv.
Mr. Shivam Shukla, Adv.
Mr. Shashwat Singh, Adv.
Mr. Divyanshu Srivastava, Adv.
Ms. Chitra Agarwal, Adv.

Ms. Manavi Agarwal, Adv.
Mr. E.C. Agrawala, AOR

For Respondent(s)
For R-4

Mr. Tushar Mehta, SG
Mr. Gopal Jain, Sr. Adv.
Mr. Madhav V. Kanoria, Adv.
Ms. Srideepa Bhattacharyya, Adv.
Ms. Neha Shivhare, Adv.
M/s Cyril Amarchand Mangaldas

Mr. Kapil Sibal, Sr. Adv.
Mr. Shyam Divan, Sr. Adv.
Mr. Huzefa Ahmadi, Sr. Adv.
Mr. Arvinth Pandian, Sr. Adv.
Mr. Anant Merathia, Adv.
Ms. Komal Mundhra, AOR
Ms. Yashi Singh, Adv.
Ms. Poornima Devi, Adv.
Mr. Ranghasayee, Adv.
Mr. Arpith Jacob Varaprasad, Adv.
Mr. Sumedha Ray Shankar, Adv.
Mr. Aniket Bhattacharyya, Adv.

Mr. Dama Seshadri Naidu, Sr. Adv.
Mr. Pai Amit, AOR
Ms. Pankhuri Bhardwaj, Adv.

For R-2

Mr. Vijay Narayan, Sr. Adv.
Mr. T. Ravichandran, Adv.
Mr. K.V. Balakrishnan, Adv.
Mr. K.V. Mohan, AOR

Mr. C.A. Sundaram, Sr. Adv.
Mr. Saurabh Agrawal, Adv.
Mr. manu Seshadri, Adv.
Mr. Sahil Manganani, Adv.
Ms. Aakriti Gupta, Adv.
Mr. Rishi Raj Mukharjee, Adv.

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

- 1 Permission to file the appeal without certified/plain copy of the impugned order is granted.
- 2 The Civil Appeal is disposed of in terms of the signed order.
- 3 Pending applications, if any, stand disposed of.

**(CHETAN KUMAR)
A.R. -cum-P.S.**

**(SAROJ KUMARI GAUR)
Assistant Registrar**

(Signed order is placed on the file)