

IN THE HIGH COURT OF ANDHRA PRADESH : AMARAVATI
(SPECIAL ORIGINAL JURISDICTION)

TUESDAY, THE TWENTY SECOND DAY OF NOVEMBER
TWO THOUSAND AND TWENTY TWO

: PRESENT:

THE HONOURABLE SRI JUSTICE VENKATESWARLU NIMMAGADDA

IA NO.2 OF 2019

IN

WRIT PETITION NO. 21601 of 2019

Between:

1. Ecoren Energy India Private Limited, having its registered office at Plot No. 1202,1215A, Door No. 8-2-293/82/A/1202, S.L. Jubilee, Road No.61, Jubilee Hills, Hyderabad - 500033 Represented by its Authorized Representative Suresh BabuGudikandula
2. Danu Wind Parks Private Limited, having its registered office at Plot No. 1202,1215A, Door No. 8-2-293/82/A/1202, S.L. Jubilee, Road No.61, Jubilee Hills, Hyderabad - 500033 Represented by its Authorized Representative Suresh BabuGudikandula
3. Aeolus Wind Parks Private Limited, having its registered office at Plot No. 1202,1215A, Door No. 8-2-293/82/A/1202, S.L. Jubilee, Road No.61, Jubilee Hills, Hyderabad - 500033 Represented by its Authorized Representative Suresh BabuGudikandula
4. Fujin Wind Parks Private Limited, having its registered office at Plot No. 1202,1215A, Door No. 8-2-293/82/A/1202, S.L. Jubilee, Road No.61, Jubilee Hills, Hyderabad - 500033 Represented by its Authorized Representative Suresh BabuGudikandula
5. Dindore Winds Private Limited, having its registered office at Plot No. 1202,1215A, Door No. 8-2-293/82/A/1202, S.L. Jubilee, Road No.61, Jubilee Hills, Hyderabad - 500033 Represented by its Authorized Representative Suresh BabuGudikandula
6. Ananthapur Energy Projects Private Limited, having its registered office at 32-5-3, Lakshmi Nilayam, Prajasaktinagar Vijayawada, 520010 Represented by its Authorized Representative Suresh BabuGudikandula
7. Boreas Renewable Energy Private Limited, having its registered office at Plot No. 1202,1215A, Door No. 8-2-293/82/A/1202, S.L. Jubilee, Road No.61, Jubilee Hills, Hyderabad - 500033 Represented by its Authorized Representative Suresh BabuGudikandula
8. Jwalya Wind Private Limited, having its registered office at H. NO. 63/493, Motilal Nagar III, M. G. Road, Goregaon (West), Mumbai-400090 Represented by its Authorized Representative Suresh BabuGudikandula

Petitioners

AND

1. Union of India, Represented by its Secretary, Ministry of New and Renewable Energy, Block-14, CGO Complex, Lodhi Road, New Delhi 110003
2. Southern Power Distribution Company of Andhra Pradesh Ltd., 19-13-65/A, Srinivasapuram, Tiruchanoor Road, Tirupati, represented by its Chairman and Managing Director and Chief General Manager
3. Central Electricity Authority, Sewa Bhawan, R.K.Puram, Sector 1, New Delhi 110006 Rep by its Chairperson
4. Reserve Bank of India, Dept. of Banking Regulation, Central Office, 12th Floor, Shahid Bhagat Singh Marg Fort, Mumbai 400001

5. Indian Renewable Energy Development Agency, India Habitat Centre, East Court, Core 4A, 1st Floor, Lodhi Road, New Delhi 110 03
6. India Infrastructure Finance Company Ltd, 5th Floor, Block - 2, Plate A and B, NBCC Tower, East Kidwai Nagar, New Delhi - 110023
7. Tata Cleantech Capital Ltd., (TCCL), I-Think Techno Campus, A wing, 4th Floor, Off Pokhran Road No. 2, Thane West, Mumbai - 400607
8. M/s PTC India Financial Services Ltd, 7th Floor, Telephone Exchange Building, 8 Bhikaji Cama Place, New Delhi 110 066
9. Reliance Capital Limited, Reliance Centre, 6th Floor, South Wing, Off. Western Express Highway, Santacruz (East), Mumbai - 400 055

Respondents

Petition under Section 151 CPC praying that in the circumstances stated in the affidavit filed in support of the petition, the High Court may be pleased to restrain the Respondents 5 to 9 from declaring the Petitioners as Non Performing Assets, pending disposal of WP No. 21601 of 2019 on the file of the High Court.

WP.No.21601 OF 2019

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 particularly in the nature of Mandamus directing the Respondent No. 2, i.e., APSPDCL to make payment of an amount of Rs. 34.05 Crores to the Petitioner No.2, Rs. 17.93 Crores to the Petitioner No. 3, Rs. 32.33 Crores to the Petitioner No. 4, Rs. 8.46 Crores to the Petitioner No. 5 as on 08.12.2019 under the respective PPAs along with late payment surcharge at the interim rate of Rs. 2.43/- per unit within a period of 7 days from the date of the order, without prejudice to the rights and contentions of the Petitioners under law, PPA, equity or otherwise and direct the Respondent Nos. 5 to 9 to refrain from taking any precipitative steps/actions against the Petitioners in relation to their respective loan facilities extended to the Petitioners till APSPDCL makes payment of the outstanding dues to the Petitioners as prayed above and further declare that the statutory period of 90 days, for declaring an account as NPA under the RBI Master Circular dated 01.07.2015 and RBI Circular dated 07.06.2019 shall commence after the subject matter of O.P. No. 17 of 2019 is finally decided

IA NO: 1 OF 2019:

Petition under Section 151 CPC praying that in the circumstances stated in the affidavit filed in support of the petition, the High Court may be pleased to restrain the Respondents 5 to 9 from taking any coercive action against the Petitioners, pending disposal of WP No. 21601 of 2019 on the file of the High Court.

The petition coming on for hearing and upon perusing the petition and affidavit filed herein and order of the High Court dated 29.9.2021, 10.11.2021, 22.11.2021, 6.12.2021, 13.12.2021 03.01.2022, 25.1.2022, 17.02.2022, 05.08.2022, 14.09.2022 & 31.10.2022 made herein and upon hearing the arguments of Sri S.VIVEK CHANDRASEKHAR, Advocate for the Petitioners, Sri. N. Harinath, Asst. Solicitor General for the Respondent No.1 and of Sri. Y. Nagi Reddy, Sc for the Respondent No.2, Sri. Sai Sanjay Smaneni for Respondent Nos., 5 & 8 the Court made the following.

ORDER:

"Hence learned counsel for the petitioners and learned counsel for respondent No.7.

Learned counsel for the petitioners would submit that even though this Court granted interim direction on 02.01.2020 directing the respondents not to declare the petitioners as NPA (Non Performing Assets) holders but the respondents are proceeding further by stating that the NPA proceedings have already been taken place and the petitioners have already declared as NPA holders much prior to the orders of this Court. Therefore, the respondents are proceeding with further as if there is no order and they are taking steps to take over the assets of the petitioners treating that the petitioners as NPA holders and trying to part the assets of the petitioners in favour of the third parties.
22 109

Hence, the petitioners filed the present I.A.No.2 of 2019 seeking the appropriate orders against the respondents not to take any coercive action against the petitioners.

On the other hand, learned counsel for the respondent No.7 would submit that she does not have any instructions from their client since the matter was suddenly posted under the caption 'for orders' and also submits that they did not identified the case since it was not shown on the advocates code and requests for one week time to get instructions. Moreover, she further resists from any interim orders from this Court.

Having considered the submissions made by the learned counsel for the petitioners and learned counsel for the respondent No.7, this Court deems it fit and proper to allow the present application in view of the urgency.

In view of the above circumstances, there shall be an interim direction directing the respondents not to take any coercive action against the petitioners till 02.12.2022."

**Sd/- U. SRI DEVI
ASSISTANT REGISTRAR**

// TRUE COPY //

For ASSISTANT REGISTRAR

To

1. The Secretary, Union of India, Represented by its Ministry of New and Renewable Energy, Block-14, CGO Complex, Lodhi Road, New Delhi 110003
2. The Chairman and Managing Director and Chief General Manager, Southern Power Distribution Company of Andhra Pradesh Ltd., 19-13-65/A, Srinivasapuram, Tiruchanoor Road, Tirupati.
3. The Chairperson, Central Electricity Authority, Sewa Bhawan, R.K.Puram, Sector 1, New Delhi 110006.
4. Reserve Bank of India, Dept. of Banking Regulation, Central Office, 12th Floor, Shahid Bhagat Singh Marg Fort, Mumbai 400001
5. Indian Renewable Energy Development Agency, India Habitat Centre, East Court, Core 4A, 1st Floor, Lodhi Road, New Delhi 110 03
6. India Infrastructure Finance Company Ltd, 5th Floor, Block - 2, Plate A and B, NBCC Tower, East Kidwai Nagar, New Delhi - 110023
7. Tata Cleantech Capital Ltd., (TCCL), I-Think Techno Campus, A wing, 4th Floor, Off Pokhran Road No. 2, Thane West, Mumbai - 400607
8. M/s PTC India Financial Services Ltd, 7th Floor, Telephone Exchange Building, 8 Bhikaji Cama Place, New Delhi 110 066
9. Reliance Capital Limited, Reliance Centre, 6th Floor, South Wing, Off. Western Express Highway, Santacruz (East), Mumbai - 400 055(1 to 9 by RPAD)
10. Two CCs to Sri N. Harinath, Deputy Solicitor General, High Court, A.P.(OUT)
11. One CC to Sri S.Vivek Chandrasekhar, Advocate(OPUC)
12. One CC to Sri Y.Nagi Reddy, Standing Counsel (OPUC)
13. One CC to Sri. Sai Sanjay Smaneni Advocate (OPUC)
14. One spare copy.

MSB

HIGH COURT

NV,J

DATED: 22.11.2022

ORDER

LIST THE MATTER ON 30.11.2022

IA NO.2 OF 2022
IN
WP.NO. 21601 OF 2019

INTERIM DIRECTION

