

(2010) 07 GAU CK 0005

In the Gauhati High Court

Case No : W.P (C) No's. 6779 of 2002 and 1793 of 2003

Dilip Sarma

APPELLANT

Vs

Punjab National Bank and Others

RESPONDENT

Date of Decision : 02-07-2010

Acts Referred:

Banking Regulation Act, 1949 — Section 30B(1)

Constitution of India, 1950 — Article 226

Debts Recovery Tribunal Act, 1993 — Section 20

Recovery of Debts Due to Banks and Financial Institutions Act, 1993 — Section 19, 20

Citation : (2010) 4 GLT 310

Hon'ble Judges : B.K. Sharma, J

Bench : Single Bench

Advocate : A. Sarma, for the Appellant; P.K. Kalita and S. Dutta, for the Respondent

Final Decision : Dismissed

Judgement

B.K. Sharma, J.—Both the writ petitions have been filed by the same Petitioner in respect of a debt recovery proceeding pending before the Debt Recovery Tribunal at Guwahati.

2. In W.P. (C) No. 6779/2002, following is the prayer:

In the premises aforesaid, it is therefore prayed that Your Lordship may be pleased to admit this petition, issue a rule calling upon the Respondents to show cause as to why a Writ of Certiorary shall not be issued for setting aside/quashing the impugned order dated 2.9.02 passed by the Debt Recovery Tribunal, Guwahati in O.A. 37/2000 (Annexure No. XI) and a writ of Mandamus shall not be issued directing/commanding the Debt Recovery Tribunal, Guwahati to stay/keep in abeyance the order/judgment to be passed in O.A. 37/2000 till disposal of the appeal No. 28/2002 pending before the DRAT at Kolkata and after hearing the cause or causes being shown be pleased to make the rule absolute and final and/or to pass such order or other orders as to Your Lordships may

deem fit and proper to render complete justice to the Petitioner.

And

Pending hearing of the rule be pleased to stay the further proceeding in case No. O.A. 37/2000 pending before the DRT, Guwahati with a direction to DRT, Guwahati not to pass or prohibit from passing any order/Judgment in case No. O.A. 37/2000 till disposal of the rule and to pass such order or direction to DRT Guwahati to render justice and relief to the Petitioner.

3. In W.P. (C) 1793/2003 the prayer made is as follows:

In the premises aforesaid, it is therefore prayed that Your Lordship may be pleased to admit this petition.

1. Call for records of O.A. 37/2000 from the DRT at Guwahati.

2. Call for internal audit reports of all the accounts of Guwahati Cotton Mills (P) Ltd. (P) Ltd. in Punjab National Bank, Zoo road branch upto the end of the year 2000.

3. Call for the records of the insurance claim policy No. 1153020900813/94 in New India Assurance Co. Ltd., A.T. Road Branch in the name of Guwahati Cotton Mill (P) Ltd. and Punjab National Bank, Zoo road Branch

And

Issue rule calling upon the Respondents to show cause as to why writ of mandamus/Certiorari or any other appropriate Writ shall not be issued by the directing the Respondent No. 2 for special auditing of all the accounts in the name of Guwahati Cotton Mill (P) Ltd. in Punjab National Bank, Zoo Road Branch for a period from 1st January 1994 to 31st August 2000 u/s 30(1B) of Banking Regulation Act 1949 as prayed in the petition

And

After hearing the parties and on perusal of the records and the causes being shown be pleased to make the rule absolute and final and/or to pass such order or other Ors. a to Your Lordships may deem fit and proper to render complete justice to the Petitioner

And

Pending hearing of the rule, be pleased to stay the further proceedings of the case No. O.A 37/2000 before the DRT at Guwahati Punjab National Bank v. Guwahati Cotton Mills (P) Ltd. and Ors.

4. The Petitioner is the Director of the Company called M/s. Guwahati Cotton Mills (P) Ltd. The Respondent Bank has extended working coital loan in the form of cash credit facilities to the said company to the extent of Rs. 23,00,000/- (Rupees twenty three lakhs) under specific terms and conditions. When there

was failure to repay the loan, the Respondent Bank filed O.A. No. 37/2000 in the Debt Recovery Tribunal at Guwahati (hereinafter referred to as the Tribunal). According to the Petitioner, although the OA has been filed against the company and the other Directors of the company and the guarantors, but it is the Petitioner, who alone is contesting the case. As per the allegations made in Para-3 of the writ petition being W.P. (C) No. 6779/2002 (Hereinafter referred to as the first writ petition) the Respondent Bank while filing the OA in the Tribunal has suppressed some vital material facts and also provided certain misinformations for misleading the Tribunal. An application was made by the Petitioner for procurement of certain relevant documents as stated in Para-4 of the writ petition.

5. In Para-5 of the said writ petition, that the Petitioner has stated about filing of two petitions on 11/12/2001 along with the written statement to produce the seizure list by the Respondent Corporation of the immovable properties of the Company and for issuance of Commission by appointing Auditor for inspection and auditing of accounts of the company. Objection being filed by the Respondent Bank, the Tribunal fixed the matter for objection hearing on 07.03.2002, 10.04.2002 and subsequently, on 16.05.2002 and 18.06.2002. According to the Petitioner, when the parties were ready for objection hearing on 18.06.2002, the Tribunal refused to listen to the Petitioner's submission for objection hearing and passed the impugned order dated 18.06.2002 purportedly, modi-faing its earlier order dated 16.05.2002 and fired the matter for filing of evidence-on-affidavit on 16.07.2002 by the Petitioner, instead of proceeding with the objection hearinceas per the previous order. For a ready reference, the said order dated 18.06.2002 is reproduced below:

ORDER

O.A. No. 37/2000

18.06.2002

Learned Advocate on both sides are present. It is understood from both sides that they are satisfied with the documents furnished by each Side. There is no grumble for supply of any further document. Learned Advocate for the Defendant No. 3 wanted to make submission about the objection and prayer relating to appointment of commission for auditing of accounts for issuance of commission to audit the accounts of the Bank. I find from the objection and prayer so made to this respect nothing more than creation of confusion. Defendant No. 3 is yet to file evidence on affidavit. It is the Law that the parties contesting must file evidence in affidavit and thereafter, if any, confusion or my point wanted to be clarified, they may make submission. Let the Defendant No. 3 file evidence s n affidavit first and then any further matter regarding the prayer for appointment of commission or feasibility of such appointment may be taken into consideration. Another opportunity is given to the Defendant No. 3 to file evidence on affidavit on 16.07.2002.

Sd/- Presiding Officer Debts Recovery Tribunal Guwahati

6. It is stated in Para-9 of the writ petition then the Petitioner decided to file a petition before this Court on 16.07.2002, on which date the Court was to reopen after vacation and accordingly, an application was filed before the Tribunal on 16.07.2002 seeking adjustment and made verbal submission as to the Petitioner could not file his petition before this Court prior to 16.07.2002. Be it stated here that 16.07.2002 was the date fixed for filing of evidence-on-affidavit by the Petitioner. According to the Petitioner, in spite of verbal submissions the Tribunal refused to listen to the same and passed an order fixing the matter for argument on the next date i.e. 01.08.2002 by closing the opportunity of filing evidence-on-affidavit by the Petitioner. For a ready reference, the order dated 16.07.2002 is quoted below:

ORDER

O.A. No. 37/2000

16.07.2002

Applicant's lawyer is present. Seen petition No. 497/02 filed on behalf of Defendant No. 3 stating that the Defendant No. 3 is going to High Court to file a petition there, and thus sought an adjournment. The petition does not say in what connection the Defendant No. 3 is going to the High Court. It is up to the Defendant No. 3 as the liberty is wide open to him to move any petition under the Law, before the Hon'ble High Court, but here, so far as this Tribunal is concerned, last opportunity was given to the Defendant No. 3 to file evidence on affidavit today. The affidavit is not filed. The prayer for adjournment on such ground, mentioned in the aforesaid petition, is rejected.

Fix 01.08.02 for argument.

Sd/- Presiding Officer Debts Recovery Tribunal Guwahati

7. In para-11 of the writ petition the statement made is that the Petitioner being aggrieved by the aforesaid orders dated 18.06.2002 and 16.07.2002, passed by the Tribunal filed an appeal u/s 20 of the Debt Recovery Tribunal Act before the Debt Recovery Appellate Tribunal at Kolkata on 30.08.2002 and moved on 02.09.2002 and that the same was registered as Appeal No. 28/2002. The Appellate Tribunal did not grant any stay order. However, liberty was granted to the Petitioner to serve Notice on the Respondents. It has further been stated in Para-11 that prior to filing of the appeal before the Appellate Tribunal, the Petitioner had moved this Court by filing W.P. (C) No. 4595/2002 and W.A. No. 446/2002.

8. It appears that the writ petition was dismissed by Annexure-6 order dated 09.08.2002 and thereafter, the appeal preferred against the said order was also dismissed by order dated 27.08.2002. For a ready reference both the orders are reproduced below:

[1] ORDER

W.P. (C) No. 4595/2002

09.08.2002

Heard Mrs. A. Sarma, Learned Advocate for the Petitioner and Mr. Borkotoki, Learned Advocate for the Bank.

This writ application has been filed challenging the order dated 16.07.2002 passed by the Presiding Officer, DRT in O.A No. 37/00. An application was filed by the Respondent bank for realisation of huge amount, that application is pending since 2002. On 16.7.2002 the Tribunal passed the following impugned order:

Applicant's lawyer is present. Seen petition No. 497/02 filed on behalf of Defendant No. 3 stating that the Defendant No. 3 is going to High Court to file a petition there, and thus sought an adjournment. The petition does not say in what connection the Defendant No. 3 is going to the High Court. It is up to the Defendant No. 3 as the liberty is wide open to him to move any petition under the Law, before the Hon'ble High Court, but here, so far as this Tribunal is concerned, last opportunity was given to the Defendant No. 3 to file evidence on affidavit today. The affidavit is not filed. The prayer for adjournment on such ground, mentioned in the aforesaid petition, is rejected

Fix 01/08/02 for argument.

On 18.6.2002 the Tribunal passed the following order:

Learned Advocate on both sides are present. It is understood from both sides that they are satisfied with the documents furnished by each side. There is no grumble for supply of any further document. Learned Advocate for the Defendant No. 3 wanted to make submission about the objection and prayer relating to appointment of commission for auditing of accounts for issuance of commission to audit the accounts of the Bank. I find from the objection and prayer so made to this respect nothing more than creation of confusion. Defendant No. 3 is yet to file evidence on affidavit. It is the Law that the parties contesting must file evidence on affidavit and thereafter, if any, confusion or any point wanted to be clarified, they may make submission. Let the Defendant No. 3 file evidence on affidavit first and then any further matter regarding the prayer for appointment of commission or feasibility of such appointment may be taken into consideration. Another opportunity is given to the Defendant No. 3 to file evidence on affidavit on 16.07.2002.

After hearing the Learned Advocate for the parties and on perusal of the materials on record, I do not find any merit in this writ application and the same shall stand dismissed.

[2] ORDER

W.A No. 446/2002 in W.P.C No. 4595/2002

27.08.2002

Heard Mr. A.S. Choudhury, learned Counsel for the Appellant.

The Appellant has an alternative efficacious remedy to file appeal against the order passed by the Tribunal u/s 20 of the Recovery of Debts Due to Banks and Financial Institution Act, 1993. That being the position, the appeal is not maintainable and shall stand dismissed.

While considering the question of limitation the Appellate Tribunal may take in to consideration the pendency of the writ petition/appeal before this Court.

9. Although, the Petitioner has annexed the aforesaid two orders to the writ petition but there is no mention of the same in Para-11 of the writ petition in which the writ petition and writ appeal have been referred to. From the statements it appears that an impression is sought to be given that this Court provided for pursuing the alternative and efficacious remedy to the Petitioner by preferring an appeal before the Appellate Tribunal.

10. When the matter was fixed for argument on 30.08.2002, but the Petitioner being away to Kolkata moved an application through his engaged counsel for an adjournment. However, the application intended to be filed on 30.08.2002, could be filed on 02.09.2002. The orders passed on 30.08.2002 and 02.09.2002 are as follows:

ORDER

O.A. 37/00

30.08.2002

Learned Counsels on both sides present. Learned Advocate for the Defendants submits that the Defendants are going to file a petition for adjournment, supported by affidavit because of some latest development in connection with writ petition filed by them before the Hon'ble High Court. Fix 2.9.2002 for filling the petition intended to be filed by the Defendants.

Sd/- Presiding Officer

2.9.02

Learned Advocate for the applicant is present but none for the main Defendants. There is also no petition filed by the main Defendants, as it was submitted on the last date. Learned Advocate for the proforma Defendant No. 7 is present. Argument heard. Fix 3.10.2002 for order.

Sd/- Presiding Officer Debts Recovery Tribunal Guwahati

11. According to the Petitioner, Anr. application was filed on 26.09.2002 for stay of the proceeding in O.A. No. 37/2000, on the ground of pendency of the appeal before the Appellate Tribunal. However, the Tribunal refused to stay the

proceeding and fixed the matter for order/judgment on 03.10.2002. In Para-15 of the writ petition, which was filed on 16.07.2002, it has been stated that till filing of the writ petition no judgment/order had been passed.

12. It is in the aforesaid facts and circumstances, the instant writ petition was filed with the aforesaid prayer. This Court while entertaining the writ petition by order dated 17.10.2002, stayed the proceeding of O.A. No. 37/2000 and it is submitted that the said proceeding is still pending in the Tribunal without any finality.

13. As noted above, the Petitioner had earlier approached this Court by filing W.P. (C) No. 4595/2002 making a grievance against the aforesaid orders dated 18.06.2002 and 16.07.2002, passed by the Tribunal in the same O.A. i.e. O.A. No. 36/2000. In the instant writ petition also, what is challenged is the consequential order passed by the Tribunal pursuant to the said two orders. This Court noticing the entire facts and circumstances dismissed the said writ petition by the aforesaid order dated 09.08.2002 against which, the Petitioner had preferred writ appeal being WA No. 446/2002 and the same was also dismissed taking note of the alternative remedy available to the Petitioner.

14. In W.P. (C) No. 1793/2003 (hereinafter referred to as the second writ petition), the Petitioner has made the above quoted prayer. The writ petition was entertained by order dated 11.03.2003. However, it was made clear that the pendency of the writ petition would not in any way make hindrance in the proceeding pending before the Tribunal. According to the Petitioner, there is failure on the part of the Respondent Bank to implicate the Managing Director of the company of which, the Petitioner is the Director. According to the Petitioner, the loan amount was grossly misappropriated by the Managing Director of the company. In the writ petition, the Petitioner has attributed fault on the part of the Respondent Bank and the Managing Director of the company and on that basis, he has prayed for auditing of all the accounts of the company.

15. The Respondent Bank has filed its counter-affidavits in both the writ petitions denying the contentions raised in the writ petitions. In the affidavit filed in W.P. (C) No. 1793/2003 the Respondent Bank has questioned the very maintainability of the writ petitions. In this connection, the Bank has referred to the aforesaid two orders passed in the earlier writ petition and the writ appeal. The Petitioner has also filed his affidavit-in-reply reiterating his stand in the writ petition.

16. I have heard Mrs. A. Sharma, learned Counsel for the Petitioner as well as Mr. P.K. Kalita, learned Counsel representing the Respondent Bank. I have also heard Mr. M. Bhuiyan, learned Counsel appearing for the Reserve Bank of India and Mr. S. Dutta, learned Counsel representing the Respondent Insurance company. In addition to the argument advanced by the learned Counsel for the Petitioner, she has also submitted a written argument enclosing therewith certain decisions of the Apex Court and the High Courts. Alongwith the written argument the Petitioner has also enclosed a statement of accounts furnished by the Bank.

17. The decisions on which, Mrs. Sarma, the learned Counsel for the Petitioner has placed reliance are:

- i) 1984 (3) SCC 96,
- ii) AIR 1967 SC 1058,
- iii) AIR 1997 Gujarat 75,
- iv) AIR 1999 MAD 1,
- v) Lallan Prasad Vs. Rahmat Ali and Another,
- vi) AIR 1966 SC 1370,
- vii) AIR 1989 SC 1528,
- viii) AIR 1966 SC 1370,
- ix) AIR 1983 P and H 244.

18. I have considered the rival submissions made by the learned counsel for the parties and the entire materials on record. The writ appeal was dismissed by order dated 27.08.2002 noticing the alternative efficacious remedy opened to the Petitioner. Accordingly, the Petitioner had also approached the Appellate Tribunal at Kolkata and as disclosed in the counter-affidavit filed by the Respondent Bank, the appeal was dismissed by the judgment and order dated 26.02.2003 holding interalia that:

....The appeal petition is frivolous and with deliberate intent to frustrate the recovery proceedings, the appeal is accordingly dismissed. The Appellant (Sri Dilip Sarma) shall pay the cost of appeal reasonably assessed at Rs. 3,400/- (Rupees three thousand four hundred) only.

19. The aforesaid revelation made in the counter-affidavit has not been denied by the Petitioner in his affidavit-in-reply. Thus, the matter has attained its finality before the Appellate Tribunal and the said order is not under challenge in this proceeding. After dismissal of the earlier writ petition there could not have been any occasion for the Petitioner to approach this Court by filing the first writ petition and that too Virtually, on the same ground, as was agitated in the earlier writ petition.

20. In the given facts and circumstances, the Tribunal was justified in concluding the hearing and fixing the matter for further order/judgment. Merely because the Petitioner had decided to approach the Appellate Tribunal and/or had filed the appeal before the Tribunal but there being no stay order, the Tribunal was legally not precluded from hearing the matter.

21. In the second writ petition what has been contended is an internal matter of the company. The writ petition is founded on various facts pertaining to the company. The Petitioner has also made allegation against the Managing Director

of the company and has prayed for auditing of all the accounts in the name of the company with the Respondent Bank for the period from 01.01.1994 to 31.08.2000. The Tribunal is concerned with the O.A filed by the Respondent Bank towards realisation of the loan amount. The Tribunal is not concerned with the internal matters of the company.

22. Although the Petitioner has made allegations against the Respondent Bank and the Respondent No. 6 regarding the management and day to day affairs of the company but there is nothing to show that the Petitioner, who is directly associated and involved in the management of the company from 1993 that, he had ever disclosed his grievance to the Registrar of Companies or to the Bank. The Bank accounts could not have been operated by the Managing Director i.e. the Respondent No. 6 without full knowledge and full consent of the Petitioner. He had never raised any objection regarding the operation of the accounts by the Respondent No. 6. The Petitioner, who is a Director of the company all along participated in the management of the company and nothing had prevented him from raising appropriate objection to the Bank or to the Registrar of companies. Admittedly, he did not do anything of the sort. The bundle of disputed questions of fact that has been raised in the writ petition cannot be gone into exercising writ jurisdiction under Article 226 of the Constitution of India.

23. From the materials on record what has appeared is that the Respondent Bank filed the O.A. for recovery of its debts amount of Rs. 36,45,200.06 with interest calculated as on 09.07.2000 from M/s. Guwahati Cotton Mills (Pvt.) Ltd. u/s 19 of Recovery of Debts due to Banks and Financial Institutions Act, 1993. In the O.A. the particular debtor has been impleaded as Defendant No. 1 and its Directors as other Defendants including the Petitioner as Defendant No. 3, who is contesting the proceeding before the Tribunal. The Tribunal in its order dated 18.06.2002 recorded the statements of both the sides in respect of the documents furnished. It was recorded in the order that there was no more documents to be supplied. As regards the objection hearing, the Tribunal rightly observed that the same was just to create confusion while the Petitioner was given opportunity to file the evidence-on-affidavit.

24. On 16.07.2002 when the case was fixed for submission of evidence-on-affidavit by the Petitioner, he filed the petition praying for adjournment of the case. The Tribunal on perusal of the petition passed the above quoted order:

25. Meanwhile, the Petitioner filed the aforementioned W.P. (C) No. 4595/2002 and thereafter, W.A. No. 446/2002 and the orders passed therein have been noted above. As disclosed in the counter-affidavit, the appeal of the Petitioner before the Tribunal has also been dismissed. The manner and method in which the Petitioner has tried to scuttle the proceeding before the Tribunal by filing various applications/petitions have been described in Para-12 of the counter-affidavit, which is quoted below:

12. That apparently to scuttle the Respondent bank's claim for recovery its

legitimate dues that Petitioner filed Anr. writ petition before this Hon''ble Court, being W.P. (C) No. 1793/2003 which read as:

....It is absolutely made clear that the pendency of the writ petition before this Court would not in any way make hindrance in the proceeding pending before the Debts Recovery Tribunal and the Tribunal is free to proceed with the matter.

13. That it is reiterated that in spite of several opportunities, the Petitioner failed and neglect to file its evidence-on-affidavit before the Debts Recovery Tribunal, Guwahati and instead, with intent to delay the proceedings before the Debts Recovery Tribunal, Guwahati made diverse applications, viz.,

i) before the Debts Recovery Tribunal at Guwahati.

ii) before this Hon''ble High Court in

(a) W.P. (C) No. 4595/02 (dismissed on 9-8-02)

(b) W.P. (C) No. 6779/02 (pending)

(c) W.A No. 446/02 in W.P(C) No. 4595/02 (dismissed on 27-8-02)

(d) W.P. (C) No. 1793/03 (Pending)

(e) Misc Case No. 837/03 (in W.P. (C) No. 1793/03) (pending)

iii) before Debts Recovery Appellate Tribunal, Kolkata in Appeal No. Drat/CAL/A-28/2002 (Dismissed on 26-2-2003)

iv) before the Reserve Bank of India

v) Chairman, Punjab National Bank

vi) Chairman, New India Assurance Co. Ltd.

vii) Before the Hon''ble President of India.

26. Name of the decisions cited/enclosed anoghwth the written argument is of any help to the case of the Petitioner. I have gone through the same and failed to understand how they are applicable to the present fact situation. Mere citing of some decisions without any relevance to the facts involved does not help anyone.

27. In terms of the orders passed in this proceeding, the Reserve Bank of India has produced two scrutiny reports dated 03.10.2002 and 13.05.2003. The said two reports have been prepared in respect of the complaints lodged by the Company against the Respondent Bank. Although in view of my above finding, it is really not necessary to deal with the said two reports but I feel it appropriate to reproduce the conclusions reached in the said two reports.

Scrutiny Report dated 03.10.2002

Conclusion:

PNB, Zoo Road Branch as well as Shri Gopal Ch. Sarma, the MD of the Company

against whom various allegations levelled by Shri Dilip Sarma, one of the Directors of the company, in DRT, Guwahati. On August 18, 2002 DRT, Guwahati passed the order while commenting upon appointment of a audit Agency for bank's a/cs of die company "I find from the objection and prayer so made in this respect nothing more than creation of confusion".

Shri Dilip Sarma then filed a writ application in Guwahati High Court challenging fte order passed by DRT which was dismissed by Guwahati High Court on August 09,2002. The Chief Justice, Division bench, Guwahati High Court by Anr. order dated August 27,2002 dismissed the appeal of Shri Sarma.

Shri D. Sarma recently filed an appeal in Debt Recovery Appellate Tribunal, Kolkata, for which the bank had received al notice on September 09,2002. Shri D. Sarma levelled the allegations against MD and bank in Court/Tribunals on the same lines as the complaints lodged in RBI. It is surprising to note that the said Director actively participated in the day to day functioning of the CO, never complained nor raised any objection when the a/cs were in Operation, is now proceeding to court/Tribunals for legal action one after Anr. .

Put up for perusal pl.

Sd/- (P.K Das) Manager Dated: October 03,2002.

Scrutiny Report dated 13.05.2003

Conclusion:

Sri Dilip Sarma, the complainant, was the only Defendant who contested the application before DRT. The bank had made an application before the DRT claiming recovery of its debts u/s 19 of the recovery of debts due to bank and financial institution Act, 1993. High Court Challenging the order passed by DRT which was dismissed by the Hon''ble High Court.

Sri Dilip Sarma filed an appeal in Debt Recovery Appellate Tribunal, Kolkata. The Appellate Tribunal dismissed the appeal in its judgment delivered on February 26, 2003. The observations made by appellate Tribunal, which are self-explanatory, are as below:

....In those circumstances, I have no hesitation to hold that this application is frivolous and with deliberate intent to frustrate the recovery proceedings. I have perused the order made by DRT and it appeared that inspite of several opportunities afforded to the Appellant, by the learned presiding officer, the Appellant chose not to file its evidence an affidavit or participate in the proceedings.

....The allegation of collusion, conspiracy or fraud were clearly without any base or basis and there were no particulars on record. Put up for perusal please.

Sd/- Manager Date: May 13,2003.

28. Although, I have quoted the conclusions of the aforesaid two scrutiny reports

of the competent authority of the Reserve Bank of India, but I hasten to add that this judgment and order is not at all guided by any one of the said two reports and the findings arrived at are independent of the findings recorded in the said two reports.

29. From the conduct of the Petitioner and the manner and method in which the two writ petitions are structured has led me to the irresistible conclusion that they have been so filed with the sole purpose of delaying the proceeding before the Tribunal and in the process somehow to get rid of the liability on account of the debt involved for which, the Petitioner may be held responsible and liable. In the process, the Petitioner has abused the process of law. The Petitioner instead of invoking the writ jurisdiction thrusting upon this Court with jumble of facts, could have well responded to the proceeding before the Tribunal by making his points, instead of avoiding the same in the pretext discussed above.

30. For all the aforesaid reasons, I do not find any merit in both the writ petitions and accordingly, they are dismissed awarding cost of Rs. 5,000/- (Rupees five thousand) Only in each one of the writ petitions.