

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

SPECIAL LEAVE PETITION (CIVIL) Diary No. 8986/2021  
(Arising out of impugned final judgment and order dated 05-03-2019  
in CAAO No. 1527/2013 and 08-01-2021 in CAO No. 569/2020 passed by  
the High Court of Judicature at Bombay at Nagpur)

KOTAK MAHINDRA BANK LIMITED

Petitioner(s)

VERSUS

THE RECOVERY OFFICER, DEBTS RECOVERY TRIBUNAL,  
NAGPUR & ANR.

Respondent(s)

(FOR ADMISSION and I.R. and IA No.53444/2021-CONDONATION OF DELAY  
IN FILING and IA No.53440/2021-PERMISSION TO FILE PETITION  
(SLP/TP/WP/..) and IA No.53446/2021-PERMISSION TO FILE LENGTHY LIST  
OF DATES)

Date : 29-06-2021 This petition was called on for hearing today.

CORAM : HON'BLE MR. JUSTICE L. NAGESWARA RAO  
HON'BLE MR. JUSTICE HEMANT GUPTA

For Petitioner(s) Mr. Amar Dave, Adv.  
Mr. Himanshu Bhushan, AOR

For Respondent(s)

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

Permission to file special leave petition granted.

Delay condoned.

The Maharashtra Explosives Limited was directed to be  
wound up by the High Court of Judicature at Bombay, Nagpur  
Bench, Nagpur, in Company Petition No. 7/2001 on 12.08.2001.  
The Official Liquidator was permitted to sell the assets and  
properties of the said company by an order dated 09.11.2001.  
An amount of Rs.40 crores was realised from the sale of the  
assets of the said company. The sale was confirmed on

03.10.2007. ICICI Bank, IDBI and IFCI who are secured creditors of the company in liquidation filed Original Application before the Debt Recovery Tribunal ('DRT' for brevity) which was allowed by an order dated 31.08.2005. Later, ICICI Bank assigned the debt due from the Company under liquidation to Kotak Mahindra Bank on 31.03.2006.

In exercise of the power under Rule 163 of the Companies Rules, the official liquidator restricted the claim of secured creditors. The High Court by its judgment dated 07.06.2011 held that the secured creditors are at liberty to enforce their claims on the basis of the certificates issued under Section 19 (22) of RDB Act in accordance with law.

The Recovery Officer, Debt Recovery Tribunal, Nagpur, filed a civil application in Company Petition No. 7/01 for transfer of the amount lying in the Company Court to the Debt Recovery Tribunal to enable distribution in accordance with law. The High Court issued notice in the civil application filed in the year 2019 and directed the matter to be listed on 03.04.2019. On 08.01.2021, the application was directed to be placed before the learned Judge who issued notice 05.03.2019.

Challenging the said order dated 05.03.2019 and 08.01.2021, Kotak Mahindra Bank has filed this special leave petition.

Mr. Amar Dave, learned counsel appearing for the

petitioner submits that though the High Court by its order passed in the year 2011 held that the Company Court has no jurisdiction and that it is for the Recovery officer to act in accordance with law in respect of distribution of the money, till date no steps could be taken due to the pendency of the company application filed by the Recovery Officer since 2019. It is brought to our notice that the petitioner has also filed an application before the High Court seeking relief similar to that sought by the Recovery Officer.

In the facts and circumstances of the case, we are of the considered view that the civil applications filed by the Recovery Officer and the petitioner require to be disposed of at the earliest. We request the High Court to decide the applications expeditiously and not later than two months from today.

The special leave petitions are disposed of.

Pending application stands disposed of.

(NIDHI AHUJA)  
AR-cum-PS

(ANAND PRAKASH)  
BRANCH OFFICER