

S.No.1

**IN THE NATIONAL COMPANY LAW TRIBUNAL  
HYDERABAD BENCH – II  
VC AND PHYSICAL (HYBRID) MODE  
ATTENDANCE CUM ORDER SHEET OF THE HEARING HELD ON  
06.05.2026 AT 10:30 A.M.**

**Company Petition No. 04/71/HDB/2025**  
U/s 71 of Companies Act

**IN THE MATTER OF:**

Kameswara Rao Mylavarapu

**...Petitioner**

AND

DFI Nirmaan Private Limited

**...Respondent**

**C O R A M:-**

**SHRI. RAJEEV BHARDWAJ, HON'BLE MEMBER (JUDICIAL)  
SHRI. SANJAY PURI, HON'BLE MEMBER (TECHNICAL)**

**ORDER**

Orders pronounced, recorded vide separate sheets. In the result, this Petition is allowed.

**Sd/-**  
**MEMBER (T)**

**Sd/-**  
**MEMBER (J)**

**IN THE NATIONAL COMPANY LAW TRIBUNAL  
HYDERABAD BENCH - II, HYDERABAD**

**Company Application No.04/71/HDB/2025**

**In the matter of :**

Mr. Kameswara Rao Mylavarapu  
4-124, Swaroop Nagar, Uppal,  
Hyderabad-500 039.  
e-mail: raokmy11951@gmail.com.

**...Applicant (Debenture Holder)**

*A n d*

**1. M/s. DFI Nirmaan Private Limited,**  
Registered Office at H.No.8-1-206/A,  
Raghavendra Hills,  
Mylardevpally, Near Kattedan,  
Rajendra Nagar Mandal, Hyderabad – 500 005.

Administrative Office at H.No.2-3-693,  
Vaddera Basthi,  
D-Martr, A 1 Cafe Lane,  
Bagh Amberpet, Hyderabad – 500 013.

**...Company Respondent 1**

**2. Mr.A Krishna Rao, Partner**  
(Membership No.020085)  
P Murali & Company,  
(Firm Regn.No.007257S)  
Chartered Accountants,  
No.6-3-655/2/3, Somajiguda  
Hyderabad-500 082.

**...Auditors of Company, Respondent 2**

**3. The Registrar of Companies (Telangana)**  
Bandlaguda, Hyderabad.

**...Respondent 3**

(The respondent No.2 and 3 are only proforma parties)

**Date of Order: 06.05.2026**

**Coram:**

Sri Rajeev Bhardwaj, Hon'ble Member (Judicial)  
Sri Sanjay Puri, Hon'ble Member (Technical)

**Counsel/Parties present:**

For the Petitioner : Mr. Krishna Mohan Gollamudi, Ld. Counsel  
along with Mr. Kameswara Rao Mylavaram  
For the Respondent No.2 : Mr. Vinay Babu, PCS

**Per Bench**

**ORDER**

1. This Company Application has been filed under Section 71(10) of the Companies Act, 2013 seeking directions for redemption of the aforesaid Debentures along with interest till the date of payment, in accordance with the terms and conditions of the Debentures.
2. **Facts of the Case:**
  - a) The Petitioner is an Individual Debenture holder practicing as a Cost and Management Accountant in and around Hyderabad
  - b) The Respondent Company (M/s.DFI Nirmaan Private Limited) is a Company incorporated on 21.06.2018 under the Companies Act, 2013 having its registered office and administrative office as given in the cause title above.  
**(Memorandum and Articles of Association of the Company is at Page Nos.72-92 of the Petition)**
  - c) The main business of the Company is to operate as builders, developers, real estate agents and contractors for construction or demolition work of any kind and to purchase or otherwise acquire lands, houses, offices, workshops, buildings and premises for the purpose of that business.
  - d) The Respondent Company is duly authorized to borrow money/raise money/receive money on deposits at interest or otherwise in such manner as the Company may deem fit within the permissible limit and without doing any banking business as defined in the Banking Regulations Act, 1949 through the issuance of debentures, including redeemable debentures.

- e) The Petitioner invested his savings with the Respondent Company by investing in purchase of debentures on the assurance of the Directors of the Respondent Company that investment in debentures of the Respondent Company would yield stable returns. Relying on the conviction given by the Directors, the Petitioner invested a sum of Rs.3,50,000/- to purchase 3500 debentures (Debenture Nos.953201 to 956700) of Rs.100/- each issued by the Respondent Company on 21.06.2018 and the same were redeemable in 3 years with freedom to convert them partially into shares with rate of interest at 14% P.A payable quarterly commencing from June, 2018.  
**(List of Debentures Holders for the year 2021-22 is at Page Nos.48 to 58 of the Petition)**
- f) It is averred by the Petitioner that the Respondent Company paid interest only up to 30.09.2022 and subsequently defaulted in payment of interest. On maturity of the debentures on 21.06.2021, the Petitioner approached the Respondent Company for redemption of the debentures by offering to surrender the original debenture certificates. The Respondent Company kept on procrastinating the matter by failing to pay the principal amount and interest due on the debentures amounting to Rs.4,59,392/- till 17.10.2024. It is further submitted by the Petitioner that several mails were sent to the Respondent Company for redemption of the debentures with accrued interest, but replies were received to some of the mails stating that it needs time to redeem the debentures.  
**(Statement of Interest received and due are at Annexures I & II – Page Nos.15 & 16 of the Petition)**
- g) The Petitioner submits that the Company has violated the provisions of Section 71 of the Companies Act, 2013 by not creating any debenture redemption reserve out of profits of the Company as per Section 71(4) of the Act. It is also stated that Section 71(8) of the Act mandates the Company to redeem the debentures in accordance with the terms and conditions of issue.

- h) The Petitioner submits that even on maturity and receiving notices for redemption of debentures with interest, the Company has neither paid the accrued interest nor paid the principal amount. The Petitioner averred that the Statutory Auditors also failed in their duty to report these non-compliances and the non-provision of interest in their reports.
- i) It is stated by the Petitioner that the Company further issued new partially convertible debentures worth Rs.98,00,000 (98000 Nos. of partially convertible debentures of Rs.100/- each during 2022-23, despite failing to pay interest on and redeem existing matured debentures. The Petitioner formally complained to the Registrar of Companies (Telangana) on 12<sup>th</sup> October, 2023 seeking relief. Follow-up reminders were sent via e-mails after the initial compliant.  
**(Copies of mails sent and compliant to RoC, Hyderabad are at Page Nos.59-68 of the Petition)**
- j) Further, the Petitioner states that a criminal case under Sections 406 and 420 read with Section 34 of the Indian Penal Code and Section 5 of the Telangana State Protection of Depositors of the Financial Establishments Act, 1999 is pending against the Respondent Company and certain group entities. However, the pendency of such proceedings does not in any manner dilute the contractual and statutory obligation of the Respondent Company to redeem the debentures on maturity.
- k) The Petitioner asserts that the present Petition has been filed within a period of three years from the respective date of maturity of the debentures and is, therefore, within the period of limitation prescribed under law.

3. **Counter of Respondent No.2:**

- a) This counter affidavit is filed in response to the petition filed by Mr.Kameswara Rao Mylavarapu under Section 71(10) of the Companies

Act, 2013 relating to non-payment of interest and non-redemption of debentures issued by the Company.

- b) The Petitioner has explicitly stated in the cause title and in paragraph 13 of the petition that "The respondents No.2 and 3 are only proforma parties" which implies that neither the Auditors nor the Registrar of Companies were impleaded for any substantive relief.
- c) The Respondent No.2 submits that it is well settled that when no relief is sought against a party, their presence in the proceedings is merely formal and procedural and they cannot be subjected to any adverse order.
- d) It is submitted that the duties of Statutory Auditors of the Company are confined strictly to:
  - i. Examination of books of account.
  - ii. Verification of financial statements.
  - iii. Expression of an independent audit opinion.
  - iv. Reporting on compliance with applicable accounting standards and statutory requirements, to the extent known to them through information provided by the management. They are not entrusted with operational control, fund management, or decision-making authority over the Company's financial obligations like debenture redemptions or interest payments.
- e) It is submitted by them that the issuance, terms, payment, and redemption of debentures are matters within the exclusive domain of the Board of Directors and management of the Company. Unless such transactions are properly recorded in the books of account or specifically disclosed to them by the management, they may not come to their notice during the course of audit.
- f) To the allegation of the Applicant that the Respondent failed to report non-provision for interest on debentures, Non-creation of Debenture Redemption Reserve (DRR), Non-appointment of Debenture Trustee, Continued issuance of new debentures despite default, it is submitted that:

**I) Non-Creation of DRR & Non-Appointment of Debenture Trustee:**

- i) These are governance and compliance matters falling under the purview of the Board of Directors.
- ii) Under Section 143(3)(g) of the Companies Act, 2013, an auditor must report if the company has failed to make payments of dues to depositors, but debenture holders are not included in the definition of "deposits" under Chapter V of the Act unless specifically notified.
- iii) In the absence of complete disclosures from the management regarding outstanding debentures beyond maturity date, and given that the accounts were presented as "settled" or "under negotiation", the reporting was based on the information made available to them.

**II) Interest not provided in Books :**

- i) During the audit of financial statements for FY 2022-23, the Company represented that all interest up to September 2022 had been paid, and subsequent interest was being treated as negotiable liability pending restructuring discussions with investors.
- ii) The Company did not disclose any arrears of interest beyond Q2 FY 2022-23, nor was any formal demand received by the auditors from investors prior to the audit conclusion.
- iii) Without actual knowledge or documentary evidence of non-payment, they could not unilaterally qualify the audit report solely on speculative grounds.

**III) Issuance of Fresh Debentures Despite Default:**

- i) The issuance of fresh debentures during FY 2022-23 was done after obtaining necessary Board and Shareholders approvals.
- ii) At the time of audit, the Company claimed that earlier debentures had been extended with consent of investors via written communications or implied acceptance (e-continued receipt of interest).

- iii) While the Applicant claims unilateral extension without consent, such disputes are matters between issuer and investor and unless legally adjudicated or formally brought to the auditor's attention, they cannot form the basis of adverse remarks in an audit report.
- g) In the Counter, the Respondent avers that they were never involved in the design, structuring, marketing or administration of the debenture programme nor received any remuneration relating to the debenture issue or participated in investor meetings or commitments. It is further submitted that it is a settled law that the auditors cannot be held liable for commercial decisions of the company or frauds committed by management unless there is proven collusion or gross negligence. Hence, the Respondent prays the Tribunal to direct the Petitioner to remove them from the array of parties.
- 4) We have heard the learned counsels for the Petitioner and have gone through the entire records.
- 5) **Findings and analysis:**
- i) Respondents No.2 and 3 are shown as “proforma parties”, which indicates that these parties are included only to ensure their presence for compliance with procedure. As asserted by Respondent No.2, as no relief is claimed against them, they cannot be subjected to any adverse orders.
- ii) **Section 71(10) of the Companies Act, 2013 reads as under:**
- "71(10) - Where a Company fails to redeem the debentures on the date of their maturity or fails to pay interest on the debentures when it is due, the Tribunal may, on the application of any or all of the debenture holders, or debenture trustee and, after hearing the parties concerned, direct, by order, the Company to redeem the debentures forthwith on payment of Principal and interest due thereon.
- iii) In the present case, the Petitioner is a debenture holder of the Respondent Company, as evidenced by the debenture deposit certificates placed on record. The material available on record clearly establishes that the debentures matured on their respective due date

and that the Respondent Company has neither redeemed the debentures nor paid the interest due thereon.

- iv) Despite service of notice, none appeared on behalf of the Respondent Company. The averments made in the Petition, therefore, remain uncontroverted and are duly supported by the documents filed by the Petitioner.
- v) A debenture constitutes a formal acknowledgment of debt and redemption in accordance with the terms of issue is a mandatory obligation. The failure of the Respondent Company to redeem the debentures and pay interest upon maturity amounts to a clear default, thereby attracting the jurisdiction of this Tribunal under Section 71(10) of the Companies Act, 2013.
- vi) This Tribunal also notes that the Petition has been filed within three years from of date of last payment of interest, i.e., 30.09.2021 and is, thus, within the prescribed period of limitation.
- vii) In view of the above, this Tribunal is satisfied that the Respondent Company has committed a default in redeeming the debentures issued to the Petitioner and in paying interest thereon. Accordingly, the Respondent Company is directed to redeem/repay the debentures held by the Petitioner by paying the principal amount invested along with the interest accrued thereon till the date of actual payment, **within 30 days from the date of this order.**

With these directions, the Company Petition No.04/71/HDB/2025 stands allowed.

**Sd/-**  
**(SANJAY PURI)**  
**MEMBER (TECHNICAL)**

**Sd/-**  
**(RAJEEV BHARDWAJ)**  
**MEMBER (JUDICIAL)**

*Vinod*