

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.8921 of 2014

M/s JMG Steel Pvt. Ltd., a company within the meaning of the companies Act, having its Regd. Office H/o Sri Gopi Chand Goenka, Terighat, Machharhatta, Patna City – 800008. Factory at :- Raipura, Near Fatuha Industrial Area, Fatuha, Patna 803201, through its director Mr. Gopi Chand Goenka, Son of Musuddi Lal Goenka R/o Mohalla – Terighat, Machharhatta, Patna City, Patna 800008, Bihar

.... Petitioner

Versus

1. The Bank of India, a body corporate constituted under the banking Companies (Acquisition and Transfer of Undertakings) Act, 1970, having its Head Office at Star House, C-5”G” Block, Bandra Kurla Complex, Bandra East, Mumbai and having one of its Zonal offices at Bir Chand Patel Marg, Patna and one amongst the various branches known and named as Bank of India, Fraser Road Branch, Patna, Company known as Patna main branch, represented through its Managing Director.

2. The Zonal Manager, Zonal Office, Bank of India, R-Block, Patna, Bihar .

3. The Authorized Officer, Zonal Office, Bank of India, R-Block, Patna, Bihar

4. The Presiding Officer, Debt Recovery Tribunal, 34 Bank Road, Opposite New Police Line, Lodipur, P.S. Kotwali, Distt. Patna

.... Respondents

Appearance :

For the Petitioner/s : M/s Sanjeev Kr. Mishra and
Santosh Kumar Singh, Advocate

For the Respondent Nos. 1 to 3 : Mr. Sanjay Singh Thakur, Advocate

CORAM: HONOURABLE DR. JUSTICE RAVI RANJAN

ORAL JUDGMENT

Date: 09-02-2015

I.A. No. 1132 of 2015

Learned counsel for the petitioner seeks leave to withdraw

I.A. No. 1132 of 2015 to move in a separate appropriate proceeding before the competent forum.

Accordingly this interlocutory application is dismissed as withdrawn with the aforesaid liberty granted to the petitioner.

C.W.J.C. No. 8921 of 2014

Heard learned counsel for the petitioner and the Bank of India.

The petitioner confines this writ application to the relief mentioned in paragraph 1(a).

The short issue which has been raised by the petitioner is that after a final order having been passed by the Debt Recovery Tribunal on 25.2.2014, a copy of which has been appended as Annexure 15, the Tribunal could not have entertained the Misc. Application bearing M.A. No. 190 of 2014 and made modification in the earlier order dated 25.3.2014 without granting reasonable opportunity to the petitioner.

Learned counsel appearing for the Bank submits that the modification appears to be a clerical one, whereas, learned counsel for the petitioner submits that such modification may cause the petitioner about Rs. three - four crores.

Be that as it may, it is well settled that such orders leading to civil consequences could not have been passed in the absence of affected party which has admittedly been done after about two months from the date of passing of the order contained in Annexure 12.

Ordinarily this Court would not have entertained this application as there is appellate authority under the Recovery of

Debts Due to Banks & Financial Institutions Act, 1993 but in the case in hand this Court has already reached to the conclusion that the concerned order suffers from vice of violation of the settled principle of natural justice.

Accordingly, without going into the merit of the cases of the respective parties or any other details, in my considered opinion this writ application would succeed on the aforesaid short issue itself as the Debt Recovery Tribunal, Patna has made serious error of jurisdiction by passing such order without granting any opportunity to the petitioner though he has been impleaded as opposite party in the case concerned.

Accordingly, order dated 5.5.2014, as contained in Annexure 15, is quashed and set aside.

The petitioner would be required to appear before the Debts Recovery Tribunal, Patna on 18.2.2015 in M.A. Case No. 190 of 2014 and file his objection and on that day the respondent Bank would also be well represented. The Debts Recovery Tribunal, Patna would fix a date and dispose of the matter expeditiously preferably within a period of ten days on its own merit and in accordance with law. If the petitioner does not appear on 18th February, 2015 then in such case the order which has been quashed will automatically revive.

Accordingly, this writ application stands allowed to the extent as indicated above.

(Dr. Ravi Ranjan, J)

Spd/-

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