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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

ARBITRATION PETITION NO.439 OF 2015

Santec Fabricators (India) Pvt. Ltd. & Anr.	...Petitioners
V/s.	
BJN Hotels Ltd.	...Respondents

Mr.Jatin Palakkal i/b Mr.Charvy Hatkanagalekar for the Petitioners.

None for the Respondents.

CORAM : R.D. DHANUKA, J.
DATE : 25TH JUNE, 2015.

P.C. :-

1. Learned counsel for the petitioners states that the respondents are served. Statement is accepted. None appeared for the respondents. Learned counsel for the petitioner however invited my attention to the affidavit in reply filed by the respondents on 5th May, 2015.

2. By this petition filed under section 9 of the Arbitration & Conciliation Act, 1996, the petitioner seeks various interim measures against the respondents. By an ad-interim order passed by this Court on 5th May, 2015, this Court has directed the respondents to maintain status-quo in respect of its assets subject to mortgage and charge of the Bank of India in respect of those assets. It is further directed that

the respondents shall not dispose of any of those assets otherwise than in the course of its business, except for enforcement of the mortgage and hypothecation in favour of the Bank of India or its assignees.

3. Mr.Palakkal, learned counsel for the petitioner invited my attention to the order dated 11th April, 2014 passed by the High Court of Karnataka in Company Petition No.139 of 2012 filed by M/s.Sristi Hospitality Pvt. Ltd. against the respondent herein *inter-alia* praying for winding up of the respondent company. The Karnataka High Court has observed that during the pendency of the said company petition, the respondent herein has paid substantial amounts to the said M/s.Sristi Hospitality Pvt. Ltd. and no more amount was due. The Karnataka High Court has observed that it was thus evident that the respondent was in a position to pay its debts and dismissed the said company petition.

4. Learned counsel also invited my attention to the averments made by the respondents in paragraph 38 of the affidavit in reply, in which the respondent has disclosed the alleged current status of the some of the properties of the respondent. It is stated that the respondent was merely trying to bring in an investor who would infuse capital into the respondent company for winding operation of the respondent company. The respondent has also disclosed the

status of some of the properties in paragraph 24 of the said affidavit in reply.

5. During the pendency of this petition, the arbitration petition filed by the respondent under section 34 of the Arbitration & Conciliation Act, 1996 impugning the arbitral award is rejected. To the knowledge of the petitioner, no appeal has been preferred against the said order by the respondent.

6. In my view, till the petitioner takes steps to execute the impugned award, if not already filed, which shall be done within a period of twelve weeks from today, the petitioner has made out a case for the following reliefs.

i). Ad-interim order passed by this Court on 5th May, 2015 to continue for a period of 12 weeks from today. The respondent is also directed not to create any third party right and/or create any further encumbrances in respect of the properties described in the affidavit in reply for a period of 12 weeks from today. It is ordered accordingly.

7. The arbitration petition is disposed of in the aforesaid terms. The petitioner is directed to convey this order to the respondents. No order as to costs.

(R.D. DHANUKA, J.)