

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
COMPANY APPLICATION (L) NO. 771 OF 2014
IN
COMPANY APPLICATION (L) NO 301 OF 2014
IN
COMPANY PETITION (L) NO. 260 OF 2014

Kotak Mahindra Bank Limited ... Applicant

IN THE MATTER BETWEEN :

JSW Steel Limited ... Petitioner

Versus

PSL Limited and Ors. ... Respondent

Mr. Arif Bookwala, Sr. Adv. a/w. Mr. Faisal Sayyed, Ms. Namrata Sharma, Ms. Komal Khushalani i/b. M/s. Manilal Kher Ambalal & Company for the Applicant.

Mr. Janak Dwarkadas, Sr. Adv. a/w. Ms. Nandini Singh i/b. Bharucha and Partners for the Petitioner.

Mr. Omprakash Jha i/b. The Law Point for the Respondent.

Mr. Ashish Kamat i/b. Desai and Diwanji for the ICICI Bank Limited.

CORAM : S.J. KATHAWALLA, J.

DATED : 14TH JANUARY, 2015

P.C.

1. On 16th July, 2014 this Court passed the following order :

“Mentioned. Not on board. Taken on board.

Stand over to 17th July, 2014.

In the meantime, the Respondent Company and its

Subsidiaries in India and/or Abroad shall not dispose of any

of its assets”.

2. A further order was passed by this Court on 5th August, 2014, which is reproduced hereunder :

“1. In view of what is stated in Paragraph Nos.3.5 and 3.6 of the Affidavit filed by the Applicant and Paragraph No.3 of the Affidavit filed by the Respondent Company, the proceedings before the US Bankruptcy Court at Delaware, shall continue and the order passed by this Court dated 16th July, 2014 stands vacated qua the two Subsidiaries.

2. The CDR Scheme Monitoring Committee shall within a period of two weeks from today decide as to whether they are implementing the CDR Scheme notwithstanding that SBI / Edelweiss are wanting to join the Scheme or not. Stand over to 19th August, 2014, high on board.

3. In view of the above order, the Company Application (L) No.359 of 2014 stands disposed of”.

3. The Applicant – Kotak Mahindra Bank Limited has filed the above Application being Company Application (L) No. 771 of 2014 for the following reliefs :

“(a) that this Hon'ble Court be pleased to modify and / or set aside the order dated 16th July, 2014 passed by this Hon'ble Court

in Company Application (L) No. 301 of 2014 in Company Petition (L) No. 260 of 2014 to the extent to exclude the immovable properties exclusively mortgaged in favour of the Applicant situated at 1) Village Khadat, Taluka Mansa, Gandhinagar, Gujarat, 2) Village Rampara-2, Taluka Rajula, District Amreli, Gujarat, 3) Mouje Varsana, Taluka Anjar, District Kutch, Gujarat and 4) Mouje Nani Chirai, Taluka Bhachau, District Kutch, Gujarat more particularly set out in the respective Schedule "D" of the Mortgage Deeds annexed at Annexure "A" & "B" to the Affidavit in support ;

(b) That this Hon'ble Court be pleased to permit the Applicant to appear in the present Company Application (L) No. 301 of 2014 and all ancillary and other proceedings therein ;

(c) That this Hon'ble Court be pleased to stay the effect, implementation and operation of Order dated 16th July, 2014 passed in Company Application (L) No. 301 of 2014 in Company Petition (L) No. 260 of 2014 in respect of the properties more particularly set out in the respective Schedule "D" of the Mortgage Deeds annexed at Annexure "A" & "B" to the Affidavit in support".

4. However, Mr. Bookwala, the learned Senior Advocate appearing for the Applicant informs the Court that at present he is seeking

permission of this Court to sell only one of the properties mortgaged by the Respondent to the Applicant i.e. property situated at Village Khadat, Taluka Mansa, Gandhinagar, Gujarat (the said property).

5. Mr. Bookwala has informed the Court that they have a Purchaser who has offered to buy the said property at Rs. 18,25,00,000/-. On a query raised by the Court as to whether the Applicant has obtained valuation report qua the value of the said property, Mr. Bookwala has handed over a copy of the valuation report of Gulf Petrochem Energy Private Limited, where the market value of the said property is valued at Rs. 18,40,00,000/-. Mr. Bookwala on instructions further undertakes that in the event of this Court directing the Applicant to bring back the said sale consideration or any part thereof to Court alongwith interest thereon as decided by the Court, the Applicant shall forthwith deposit such amount with interest in Court. In view thereof, the following order is passed :

- i. Applicant is allowed to sell the said property situated at Village Khadat, Gandhinagar, Gujarat for sale consideration of Rs. 18,50,00,000/-.
- ii. The undertaking given by the Applicant through its Counsel which is recorded in paragraph 5 hereinabove is accepted.
- iii. The above Company Application is accordingly disposed of with liberty to file a fresh Application as and when required.

(S.J. KATHAWALLA, J.)