HON'BLE SRI JUSTICE RAMESH RANGANATHAN

AND

HON'BLE SRI JUSTICE M. SATYANARAYANA MURTHY

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WRIT PETITION No.25921 OF 2015

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ORDER: (*Per* Hon'ble Sri Justice Ramesh Ranganathan)

The action of the 3rd respondent, in continuing proceedings under the provisions of the Revenue Recovery Act, 1864 (for short, 'the Act') and in continuing attachment of the property of an extent of Ac.4.10 guntas in Survey No.296/7/8 and 296/7/9 of Bollaram village, Medak district, is questioned in this Writ Petition as arbitrary, illegal and contrary to the special provisions of the Sick Industrial Companies (Special Provisions) Act, 1985 (for short, 'the SICA'). A consequential direction is sought to set-aside the notice of attachment dated 10.02.2014 and the letter dated 03.02.2014 issued by the 3rd respondent.

The petitioner, a company incorporated under the provisions of the Companies Act, 1956 manufactures woven sacks. On the ground that it had substantial accumulated losses, which exceeded its entire net worth thereby attracting the provisions of SICA, the matter was referred to the Board for Industrial and Financial Reconstruction (for short, 'the BIFR'), and the reference was taken up under Section 15(1) of the SICA as communicated by the Registrar of BIFR *vide* his proceedings dated 19.09.2014. The reference was registered as Case No.54 of 2014, and the matter is pending adjudication before the BIFR.

For failure on the part of the petitioner to pay outstanding tax dues for Rs.2,80,35,886/-, for the period 1996-97 to 2009-10, proceedings under the Act were initiated by the 3rd respondent and a notice in Form-4 was issued giving details of the dues claimed. A Notice in Form-5 was issued on 10.02.2014 attaching the subject property. Subsequently, by their letter dated 30.09.2014, the petitioner intimated the 3rd respondent that the matter was pending before the BIFR. On the ground that the 3rd respondent had not withdrawn the proceedings initiated under the Act, and he had addressed a letter to the 4th respondent (Sub-Registrar) requesting him not to alienate the subject property, the petitioner has invoked the jurisdiction of this Court. It is their case that they wanted to lease out the land and building so as to generate income; and this is not possible in view of the letter dated 03.02.2014 addressed by the 3rd respondent to the 4th respondent.

An additional-affidavit dated 18.11.2015 is filed by the Managing Director of the petitioner-company contending that they proposed to lease out the subject property to third parties to mitigate their losses and payback the outstanding amount to the Commercial Tax Department by generating some amount; they undertook that, out of the monthly rent of Rs.2,50,000/, which was agreed to between the petitioner and M/s. Skipper Limited, the petitioner would pay Rs.2,10,000/- every month to the Commercial Tax Department towards the outstanding loan amount; and the balance amount of Rs.40,000/- was towards TDS, taxes and maintenance of the subject property.

When the matter came up earlier, we asked Sri M. Govind Reddy, learned Special Standing Counsel for the Commercial Tax Department, to ascertain whether the Commercial Tax Department was ready to accept the monthly payment of Rs.2,10,000/-, and inform the 4th respondent that the subject lease deed could be registered. Today, Sri M. Govind Reddy, learned Special Standing Counsel for the Commercial Tax Department, would submit that without prejudice to the rights of the respondents to approach the BIFR and seek its leave to proceed against the petitioner, and as long as the proceedings are pending before the BIFR, the Commercial Tax Department was willing to receive Rs.2,10,000/- p.m. from the petitioner and, on their furnishing such an undertaking to the Department, a letter would be addressed by them to the Sub-Registrar permitting registration of the subject lease deed.

In view of the submissions made by learned Special Standing counsel for the Commercial Tax Department, we permit the petitioner to pay Rs.2,10,000/- p.m. to the Commercial Tax Department; and, on an undertaking being furnished by the petitioner to the Department to the effect that they would pay Rs.2,10,000/- each month without default, the 3rd respondent shall inform the 4th respondent of their no objection to the lease deed being registered. It is made clear that, in case the petitioner were to default in payment of Rs.2,10,000/- in any given month, it would be open to the respondents to proceed and take action against them in accordance with law.

The Writ Petition is, accordingly, disposed of. No order as to costs.

In consequence, miscellaneous petitions, if any, pending in this writ petition, shall stand dismissed.

RAMESH RANGANATHAN, J

M. SATYANARAYANA MURTHY, J

Date: 30-11-2015.

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HON'BLE SRI JUSTICE RAMESH RANGANATHAN

AND

HON'BLE SRI JUSTICE M. SATYANARAYANA MURTHY

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<u>WRIT PETITION No.25921 OF 2015</u>

(Order of the Division Bench delivered by

Hon'ble Sri Justice Ramesh Ranganathan)

Date. 30-11-2015

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