cF100/-

IN THE HIGH COURT OF JUDICATURE AT BILASPUR

W.P. NO. 1793 OF 2002

IN THE MATTER OF:-

1. M/S ANNAPURNA MALLEABLES PRIVATE LIMITED, a company duly incorporated under the provisions of the Companies Act, 1956, having its registered office and works at 19, New Industrial Area, Sarora, Ring Road No. 2, Raipur 493221 (C.G.)

P. R. No. 1298/02
Presented by Shri Mohit Kherwan
dated 30-8-02

2. SHRI KAPIRAJ SINGHANIA, aged 42 years, Son of Shri Maloo Ram Singhania, Shareholder and Managing of Director of Annapurna Malleables Pvt. Ltd. carrying on trade and business at 19, New Industrial Area, Sarora, Ring Road No. 2, Raipur 493221 (C.G.)

...**PETITIONERS**

VERSUS

1. STATE BANK OF INDIA, Industrial Finance Branch, Ravi Bhavan, Second Floor, Jaistambh Chowk, Raipur (C.G.)

2. SMT. GEETHA KAZA, Aged 50 years wife of Shri P. Kaza ,Assistant General Manager, State Bank of India, Commercial Branch (formerly known as Industriala Finance Branch), Ravi Bhavan, 2nd Floor, Jai Stambh Chowk, Raipur (C.G.)

....**RESPONDENTS**

<u>CIVIL WRIT PETITION UNDER ARTICLES 226/227 OF THE CONSTITUTION OF INDIA FOR THE ISSUANCE OF WRITS IN THE NATURE OF MANDAMUS, CERTIORARI ETC. ETC. AND/OR FOR ORDER (S) AND/OR FOR DIRECTION (S) IN THE NATURE OF WRITS</u>

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

WP No. 1118 of 2001

M/s Annapurna Malleables Pvt. Ltd.

---- Petitioner

Versus

State Bank Of India & Ors.

---- Respondent

And

WP No.3612 Of 2005

M/s Annapurna Malleables Pvt. Ltd.

---- Petitioner

Vs

State Bank Of India And Others

---- Respondent

And

WP No.1793 Of 2002

M/s Annapurna Malleables Pvt.Ltd. & Ors

---- Petitioner

Vs

State Bank Of India & Anr.

---- Respondent

For Petitioners : Shri Gourav Shrivastava with Shri Romir Sumit Goyal, Advocates
Shri Sanjay Agrawal with Shri P. R. Patankar and Shri Ashish Surana, Advocates for proposed party-Kotak Mahindra Bank Limited.

Hon'ble Shri Justice Manindra Mohan Shrivastava

Order On Board By

07/04/2016

By this common order, the aforestated three writ petitions are being disposed off as Writ Petition No.3612/2005 & Writ Petition No.1793/2002 are offshoot and consequential petitions of first Writ Petition No.1118/2001.

2. The petitioner filed Writ Petition No.1118/2001 seeking direction from the Court for one time settlement under the guidelines issued by the Reserve Bank of India claiming that as per the guidelines of Reserve Bank of India, the petitioner is entitled to one time settlement in respect of loan borrowed by the petitioner from the State Bank of India.

During the course of pendency of the aforesaid writ petition, the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (In short "the Act, 2002") has came into force with effect from 21-06-2002. The respondent-bank therefore proceeded to realize the loan by issuing notice under Section 13(2) of the Act of 2002. The second writ petition was filed by the petitioner challenging the notice and subsequent proceedings under the Act of 2002.

The bank, later on, proceeded to file Original Application before the Debt Recovery Tribunal under Section 19 of Recovery of Debts due to Banks and Financial Institution Act, 1993 for recovery of loan against the petitioner. The third petition was filed by the petitioner before this Court assailing maintainability of proceedings mainly on the ground that since the petition has already remained pending before the Court on the question whether the petitioner is in debt or not, proceedings are not maintainable.

3. The entire case of the petitioner rests on its claim of one time settlement under the guidelines of Reserve Bank of India, which has been seriously disputed by the learned counsel for successor Bank.

In course of time, proposed respondent-Kotak Mahindra Bank Limited claiming to be the assignee of the State Bank of India by virtue of assignment deed executed in its favour, has sought to be impleaded as respondent in these petitions. The impleadment is being opposed by learned counsel for the petitioner on several grounds including the ground that the assignment deed does not entitle the respondent-Kotak Mahindra Bank to be impleaded as party. He relied upon several authorities also.

4. Learned counsel for respondent-bank submitted that in the O.A.No.130/2003 pending before the Debt Recovery Tribunal, an application for substitution of Kotak Mahindra Bank Limited on the basis of assignment deed has already been allowed on 03-12-2007. It is submitted that in the original application, the petitioner is one of the parties.

5. First writ petition was filed before this Court in the year 2001 when the bank had not proceeded to file any suit for recovery of debt against the petitioner and also when the Act of 2002 had not come into force.

6. The subsequent events, which have now taken place, have been noticed by this Court. In the considered opinion of this Court, all the issues, which have been raised in W.P.No.1793/2002, can be examined by the Debt Recovery Tribunal, while examining the claim of the respondent-Kotak Mahindra Bank Limited.

7. Learned counsel for the petitioner also brought to the notice of this Court that the petitioner has also filed an appeal before the Debt Recovery Tribunal under Section 17 of the Act of 2002, challenging possession notice given by the respondent-Kotak Mahindra Bank Limited.

8. In view of the subsequent developments and pendency of petitions filed

257
260

by the bank as well as by the petitioner before the Debt Recovery Tribunal, the issues which have been raised in these petitions, can be examined by the Tribunal. The petitioner may pray before the Tribunal for framing of appropriate issues by filing its reply in the petition filed by the bank. The petitioner is also at liberty to challenge the order passed by the Debt Recovery Tribunal with regard to impleadment of Kotak Mahindra Bank Limited in such proceedings as may be available to it under the law.

Learned counsel for petitioner submitted that this issue has already been raised by filing an appeal under Section 17 of the Act of 2002.

9 Be that as it may, all the issues, which have been raised, can be decided by the Debt Recovery Tribunal by framing appropriate issues depending upon the reply filed by the petitioner as also the reply filed by the respondent-bank in respective petitions filed by them, against each other.

10. Reserving liberty to the parties to raise all the grounds which are being raised before this Court, in pending petition before the Debt Recovery Tribunal, all these petitions are disposed off.

Sd/-

Manindra Mohan Shrivastava
Judge

Tumane