IN THE HIGH COURT OF JUDICATURE AT MUMBAI

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.336 OF 2016

M/s. Maestros Mediline Systems Limited and another … Petitioners
Vs.
M/s. Religare Finvest Limited … Respondent

Mr. B. S. Mahajani for Petitioners.
Mr. P. S. Dani, Senior Advocate i/b. Mr. Tejas S. Bhide for Respondent.

CORAM : R. G. KETKAR, J.
DATE : JANUARY 14, 2016

P.C. :

Heard Mr. Mahajani, learned Counsel for petitioners and Mr. Dani, learned Senior Counsel for respondent. Rule. Mr. Bhide waives service on behalf of the respondent. At the request and by consent of the parties, Rule is made returnable forthwith and the Petition is taken up for final hearing.

2. By this Petition under Article 227 of the Constitution of India, petitioners, hereinafter referred to as judgment debtors, have challenged the orders dated 28.12.2015 passed by the learned District Judge, Thane below exhibits 19 and 20 in Execution Application No.787 of 2015 in Arbitration Case No.:RFL/LRN/L-4/972 of 2014. By these orders, the learned District Judge allowed the applications for issuance of attachment warrant under Order 21, Rule 54 of the Code of Civil Procedure, 1908. Mr. Mahajani submitted that without giving reasons, the learned District Judge has allowed the applications.

3. Mr. Dani fairly does not dispute this position. Upon taking instructions, he submits that the impugned orders may be set aside and the applications exhibits 19 and 20 may be restored to the file of the

District Court. He, however, submits that judgment debtors may be called upon to make statement that till such time exhibits 19 and 20 are heard, they will neither create third party interest nor part with possession of the property in dispute. Mr. Mahajani states that till such time applications at exhibits 19 and 20 are decided, judgment debtors will neither create third party interest nor part with possession of the property in dispute. Statement made by Mr. Mahajani are recorded.

4. In view thereof, by consent of the parties, orders dated 28.12.2015 below exhibits 19 and 20 are quashed and set aside and the applications are restored to the file of the District Court.

5. Having regard to the fact that the concerned learned District Judge has prima facie issued injunction order without hearing the judgment debtors and also passed impugned orders without assigning any reasons, it is necessary to request the learned Principal District Judge, Thane to assign the matter to the Judge other than the Judge, who has passed the impugned orders. Liberty is reserved to the decree-holder to move the learned Principal District Judge for assigning the matter to the Judge other than the Judge who has passed the impugned orders.

6. Mr. Dani, upon taking instructions, seeks permission to withdraw the application for injunction at exhibit-6. On the motion made by Mr. Dani, application for injunction at exhibit-6 is permitted to be withdrawn. In view thereof, the application made by the judgment debtors for review of the order dated 07.08.2015 below exhibit 6 also does not survive and the same shall stand disposed of. The parties shall move the concerned Court for formally disposing of these applications.

7. Parties further assure that they will extend full co-operation for expeditious disposal of the applications at exhibits 19 and 20.

8. Rule is made absolute in the aforesaid terms with no order as to costs. All the parties including the learned Principal District Judge shall act upon the authenticated copy of this order.

(R. G. KETKAR, J.)

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