

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED: 6.7.2016

CORAM

THE HONOURABLE MR.JUSTICE HULUVADI G.RAMESH
AND
THE HONOURABLE MR.JUSTICE M.V.MURALIDARAN

W.P.No.21823 of 2016
and
W.M.P.No.18668 of 2016

M/s.Pincha Estate Development Pvt. Ltd.
Rep. Authorized Signatory
Mr.Rajendra Jain
having its Corporate Office at
Bikaner Building,
8/1 Lal Bazar Street,
Kolkata 700 001 and
registered office at
2B Grant Lane 2nd Floor
Room No.201 Kolkata-700 012. Petitioner

Versus

- 1 The Authorized Officer
M/s.Export-Import Bank of India
having Head Office at
Centre One, Floor 21, World Trade Center,
Cuffe parade, Mumbai 400 005.
Regional Office at
No.29, Rajaji Salai Chennai-600 001.
- 2 Dept Recovery Appellate Tribunal
4th Floor Indian Bank Circle Office
55 Ethiraj Salai Chennai-600 008.
- 3 Edelweiss Asset Reconstruction Company Ltd.
Edelweiss House 15th Floor
Off C.S.T. Road Mumbai-400 098.

RespondentsPrayer: Writ petition filed under Article 226 of the Constitution of India seeking issuance of a writ of mandamus forbearing the 3rd respondent from proceeding further based on the order dated 03.03.2014 made in R.A(S.A).No.16 of 2014 by the 2nd Respondent pending disposal of the Application filed seeking for reopening the case in I.A.No.238 of 2016 in R.A.(S.A)No.16 of 2014 and affording an opportunity of being heard to the petitioner.

For petitioner : Mr.S.R.Rajagopal
For R1 : Mr.K.Balamurali for
M/s..Sivakumar and Suresh
For R3 : Mr.Srinath Sridevan

ORDER

(Order of the court was made by HULUVADI G.RAMESH, J.)

Heard the learned counsel appearing for the parties.

2. The writ petition has been filed seeking issuance of a writ of mandamus forbearing the 3rd respondent from proceeding further based on the order dated 03.03.2014 made in R.A(S.A). No.16 of 2014 by the 2nd Respondent pending disposal of the Application filed seeking for reopening the case in I.A.No.238 of 2016 in R.A.(S.A)No.16 of 2014 and affording an opportunity of being heard to the petitioner.

3. When the matter came up on 24.6.2016, this court passed the following order:-

" It appears that the 1st respondent-M/s.Export-Import Bank of India filed appeal in R.A.(S.A).No.16 of 2014 against the order passed by the DRT-II, Chennai, in S.A.No.84 of 2012 preferred by the Writ Petitioner, wherein, the Possession Notice dated 07.08.2012 issued by the 1st respondent-Bank under Section 13(4) was set aside.

2. In a parallel proceedings, the 1st respondent-Bank also filed Application in O.A.No.77 of 2012 before DRT-2, Chennai, for the recovery of an amount of Rs.5,73,27,786.25/- and I.A.No.78 of 2013. Pending I.A.No.78 of 2013, the 1st respondent Bank had assigned the debit to M/s.Edelweiss Asset Reconstruction Company Limited, the 3rd respondent herein.

3. The said M/s.Edelweiss Asset Reconstruction Company Limited had issued a sale notice dated 19.01.2016 fixing the auction on 26.02.2016 and aggrieved by the same, the Writ Petitioner herein filed an appeal in S.A.No.63 of 2016 before DRT, Kolkata. In the said appeal, the DRT-3, Kolkata passed an order of stay of auction on 22.02.2016 and directed not to sell the property till the next date of hearing. However, on the next date of hearing i.e., on 16.05.2016, on the basis of the submission

made by 3rd respondent herein viz., Edelweiss Asset Reconstruction Co.Ltd., to the effect that they will proceed in the matter as per law, the DRT-3, Kolkata, vacated the stay order dated 22.02.2016 by order dated 16.05.2016.

4. Now, the learned counsel for the Writ Petitioner submits that the 1st respondent has issued a fresh sale notice dated 24.05.2016 scheduling the sale for 29.06.2016 and prayed this court to stay all further proceedings.

5. Hence, in the interest of justice, to enable the Writ Petitioner to meet out the immediate crisis, we hereby, direct the Writ Petitioner to make payment of Rs.50 Lakhs (Rupees Fifty Lakhs only) by 27.06.2016 and on such payment, the Auction, which is scheduled to be held on 29.06.2016 is stayed.

6. Issue notice to Respondents 1 and 3-Bank. Private Notice is also permitted. List on 06.07.2016."

4. It appears that the above order has not been complied with. Therefore, the writ petition is dismissed of for non-compliance of the order. It is for the petitioner to approach the High Court at Calcutta. No costs. The connected miscellaneous petition is closed.

ssk.

s/d-

Assistant Registrar (CS-III)

True Copy

Sub-Assistant Registrar

To:

- 1 The Authorized Officer
M/s.Export-Import Bank of India
having Head Office at
Centre One, Floor 21, World Trade Center,
Cuffe parade,
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Regional Office at
No.29, Rajaji Salai Chennai-600 001.
- 2 Dept Recovery Appellate Tribunal
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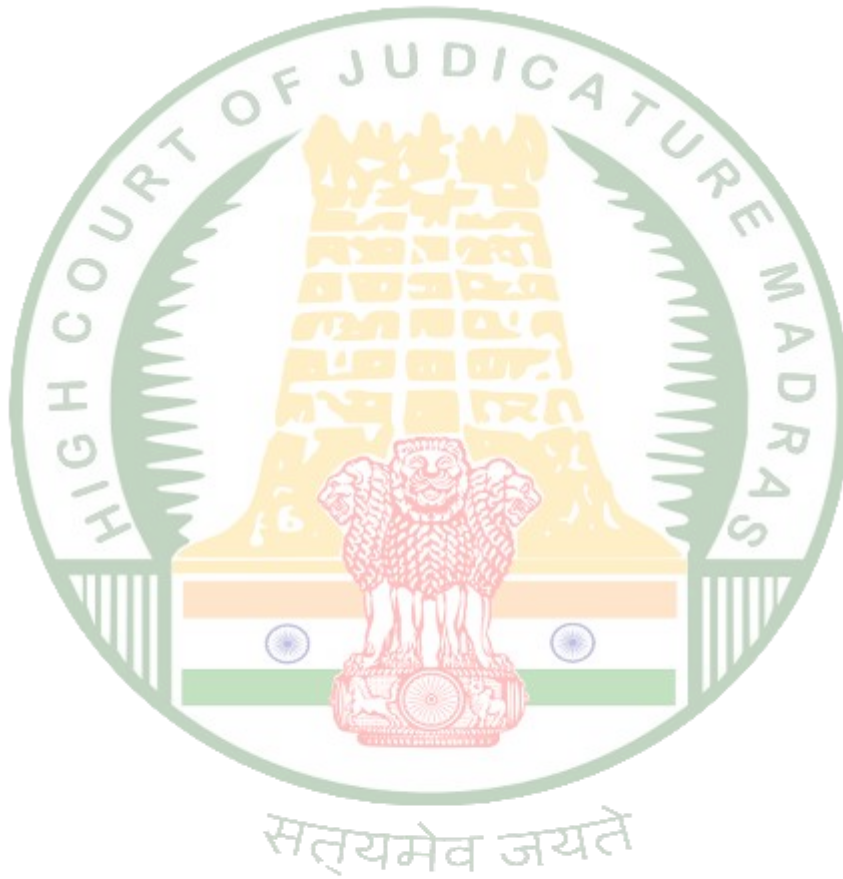
3 Edelweiss Asset Reconstruction Company Ltd.
Edelweiss House 15th Floor
Off C.S.T. Road Mumbai-400 098.

+ 1 cc to Mr.Shivakumar & Suresh, Advocates SR 38384

+ 1 cc to M/s.Srinath Sridevan, Advocate SR 38051

mg(co)
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