

**THE HON'BLE SRI JUSTICE S.V. BHATT**

**W.P.No.8405 OF 2009**

**ORDER:**

The petitioners pray for Writ of Certiorari, call for the records of 1<sup>st</sup> respondent in order dated 04.03.2009 in I.A.No.117 of 2009 in I.A.No.838 of 2008 in CTA.SR No.3598/2008 and quash the same as illegal, arbitrary and amounts to refusing to exercise the jurisdiction conferred on the 1<sup>st</sup> respondent.

The writ payer is directed against order dated 04.03.2009.

The order reads thus:

“This petition is filed seeking extension of time for complying conditions imposed while granting stay. It is the contention of petitioner that she was sick, so she is unable to comply with conditions and requested time. The petitioner originally moved I.A.No.838 of 2008 seeking stay of E.P proceedings and stay was granted directing her to pay Rs.10 lakhs within 8 weeks. Again the petitioner has filed I.A.No.93 of 2009 seeking extension of time. Time was granted. Till today nothing is paid by the petitioner. Huge amounts are due by her. There are no merits in the prayer of the petitioner and circumstances did not warrant any extension of time.

In the result, petition is dismissed, stay already granted ordered to be vacated”

On 23.04.2009 in W.P.M.P.No.11001 of 2009, the following order was passed:

“There shall be interim stay as prayed subject to the petitioner depositing an amount of Rs.10,00,000/- (Rupees ten lakhs only) as directed by the Cooperative Tribunal earlier, within a period of two months from today. In default, the stay shall stand vacated automatically without further reference to the Court.”

Learned counsel appearing for the parties submit that said condition is complied with by the petitioners.

The circumstances relevant for the disposal of the writ petition are as follows.

On 26.07.2002, the 2<sup>nd</sup> respondent passed award in ARC.No.0244/2002/OSD/VCUB. The petitioners filed CTA.SR.No.3598/2008 with delay and I.A.No.838 of 2008 for grant of stay of all further proceedings pursuant to award dated 26.07.2002. The application filed for condoning the delay, it is stated, is still pending and the 1<sup>st</sup> respondent has to pass orders on all the pending applications before it.

The petitioners did not comply with the conditional order dated 30.12.2008 of the 1<sup>st</sup> respondent. I.A.No.117 of 2009 was filed seeking extension of time. As already noted, extension of time was refused and the said application was dismissed. Hence, the writ petition.

This Court directed the petitioners to deposit Rs.10 lakhs and the condition is complied with by the petitioners.

Learned counsel appearing for the parties tried to persuade this Court on merits of the prayers in I.A.No.117 of 2009, I.A.No.838 of 2008 and CTA.SR No.3598/2008.

This Court is of the view that the substantive prayers in these miscellaneous applications are pending decision before the 1<sup>st</sup> respondent. The petitioners since have complied with the condition imposed by this Court, vacating the order at this stage or dismissing the writ petition would cause deprivation of opportunity of appeal before the 1<sup>st</sup> respondent. Therefore, this Court is satisfied that the writ petition can be disposed of by this order.

The writ petition is, accordingly, disposed of. The order dated

04.03.2009 in I.A.No.117 of 2009 in I.A.No.838 of 2008 is set aside. I.A.No.838 of 2009 is remitted to the Tribunal for consideration along with prayers for condonation of delay or for grant of stay, pending CTA. On remand, the Tribunal is at liberty to consider the case on its own merits, hear parties and pass appropriate orders. The said exercise shall be completed within a period of four months from the date of receipt of a copy of this order. The deposit of Rs.10 lakhs since is complied with, the interim order granted is directed to be continued by both parties till further orders are passed by the Tribunal in the petition filed for stay of Award or condonation of delay.

The writ petition fails and is accordingly dismissed. There shall be no order as to costs.

Consequently, pending miscellaneous petitions, if any, also stand disposed of.

---

**S.V.BHATT, J**

Date:17.06.2016

*Lrkm*