

HONOURABLE SRI JUSTICE RAJA ELANGO

WRIT PETITION No.42775 of 2016

ORDER:

1. This writ petition is filed by the petitioner under Article 226 of the Constitution of India seeking to direct the 3rd respondent to communicate the order of composition dated 10.3.2016 passed by the Company Law Board, Chennai Bench, to the Court of the Special Judge for Economic Offences-cum-VIII Additional Metropolitan Sessions Judge, Hyderabad, (or) in the alternative, to quash the proceedings pending against the petitioner in C.C.No.181 of 2014 on the file of the Special Judge for Economic Offences-cum-VIII Additional Metropolitan Sessions Judge, Hyderabad.

2. It is case of the petitioner that he worked as Whole Time Director of Maytas Infra Limited from 1st November, 2006, and he resigned from the Board of Maytas Infra Limited vide letter dated 14.1.2009. While so, the 2nd respondent conducted inspection of books of Maytas Infra Limited during the period of 24.2.2009 and 24.6.2009 and after inspection, the 2nd respondent submitted a report to the 1st respondent. In furtherance of the report, a show cause notice was issued to the petitioner alleging that he violated Section 295 of Companies Act. The petitioner gave a reply stating that the Company is making an application for compounding of the alleged offence under Section 295 of the Companies Act to the Registrar of Companies Act under Section 621-A of the Companies Act. On 17.6.2011 an application was filed before the Compounding authority for compounding the alleged offence under Section 295 of the Companies Act. Pending adjudication of the said application, the 2nd respondent filed a complaint before the Special Judge for Economic Offences-cum-VIII Additional Metropolitan Sessions Judge, Hyderabad for prosecution of the

petitioner under the provisions of the Companies Act. The learned Special Judge took cognizance of the said complaint vide C.C.No.181 of 2014. Subsequently, in July, 2015, the 3rd respondent-Registrar of Companies placed the application for compounding the offence before the Company Law Board, Chennai, and the said Board passed orders on 10.3.2016 compounding the offence alleged to have been committed by the petitioner under Section 295 of the Companies Act. But the 3rd respondent has not forwarded the said order to the learned Special Judge. Hence, the petitioner filed this Writ Petition.

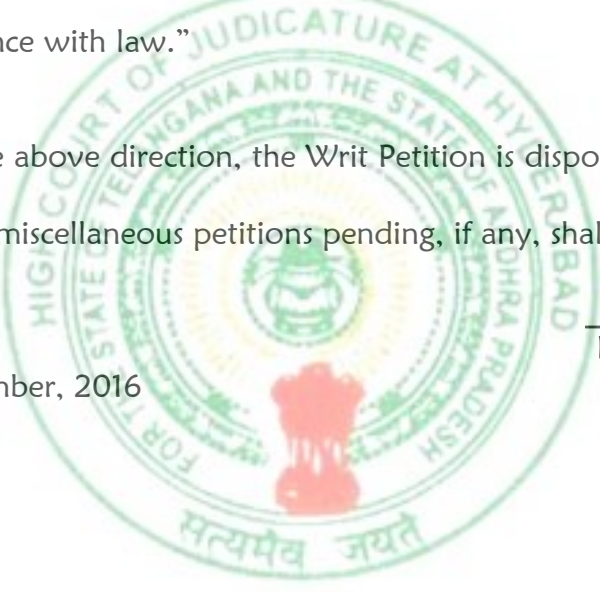
3. Learned Counsel for the petitioner submitted that even prior to passing of the said composition order, the prosecution was launched against the petitioner before the learned Special Judge, as per the provisions of the Companies Act, when the parties compounded the offence, the same should be communicated by the 3rd respondent to the competent Court even though cognizance has already been taken for the offence alleged, and on such communication by the 3rd respondent, the Court concerned has to discharge the persons against whom cognizance was taken. He further submitted that even though the matter was decided by the Company Law Board on 10.3.2016 and a representation was made by the petitioner on 16.3.2016, till date the 3rd respondent has not communicated the order of composition to the learned Special Judge for Economic Offences-cum-VIII Additional Metropolitan Sessions Judge, Hyderabad and that the petitioner is continuously appearing before the said Court and therefore, the 3rd respondent may be directed to communicate the order of the Company Law Board.

4. Considering the facts and circumstances of the case and the grievance of the petitioner, this Court is inclined to pass the following order:

“The 3rd respondent is directed to communicate the order dated 10.3.2016 passed by the Company Law Board, Chennai, to the learned Special Judge for Economic Offences-cum-VIII Additional Metropolitan Sessions Judge, Hyderabad, on or before 27th December, 2016. On such communication, the learned Special Judge for Economic Offences-cum-VIII Additional Metropolitan Sessions Judge, Hyderabad is directed to pass appropriate orders, in accordance with law.”

5. With the above direction, the Writ Petition is disposed of. No costs. Consequently, miscellaneous petitions pending, if any, shall stand closed.

Date: 8th December, 2016
Nn

RAJA ELANGO, J

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