

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

Civil Writ Petition No.10071 of 2016 (O&M)
DATE OF DECISION: 03.06.2016

Sanjay Suri and others

.....Petitioners

versus

The Debts Recovery Tribunal-I, Chandigarh and others

.....Respondents

CORAM:- HON'BLE MR.JUSTICE S.J.VAZIFDAR, ACTING CHIEF JUSTICE
HON'BLE MR. JUSTICE ARUN PALLI

Present: Mr. Girish Agnihotri, Senior Advocate with
Mr. Arvind Seth, Advocate for the petitioners
Mr. N.C. Sahni, Advocate for respondent No.3

..

S.J.VAZIFDAR, ACTING CHIEF JUSTICE:

The petitioners have challenged an order dated 22.04.2016 passed by the Debts Recovery Tribunal impounding their passports (Annexure P/1).

2. The respondent-bank filed an interim application in an O.A. for recovery of about Rs.35 crores from respondent No.5, the principal debtor and from the petitioners, who are the guarantors. By the impugned order, the DRT, without notice to the petitioners, directed the Passport Officer to impound the petitioners' passports, directed the petitioners not to leave the country without the prior permission of the DRT and also directed the Authorised Officer of the bank to ensure compliance of the order. The DRT has listed the matter on 05.07.2016 for service and completion of pleadings.

3. Mr. Agnihotri, the learned senior counsel appearing on behalf of the petitioners, stated that the DRT has no power to impound the passports. He relied upon a Division Bench judgment of the Gujarat High Court in the case of *State Bank of India vs. Prafulchandra V. Patel and Ors.*, 2011 AIR (Gujarat) 81 in support of his submission. The respondents, however, on the other hand, relied on various judgments including a Division Bench of the Kerala High Court to contend otherwise. Various

submissions were made on merits. The respondents apprehend that the petitioners may abscond and not return to India.

4. The petitioners, on the other hand, in order to show their *bona fides*, filed affidavits disclosing their assets. The respondents understandably contend that that is of little consolation to the respondents who have been running from pillar to post to recover their dues.

We appreciate that an application for impounding a passport requires the banks or any creditors to establish more than the fact that a debt is due. Assuming that the DRT has the jurisdiction to impound the passports, it would be necessary for the DRT to consider whether it ought to do so in the facts of a given case. It would, for instance, be necessary to consider whether the dues of the bank are adequately safeguarded and whether there is a reasonable apprehension that the defendants/respondents would abscond once they leave India.

5. The order was passed without notice to the petitioners but that by itself is not illegal. The petitioners are always at liberty to make an application to the DRT for setting aside or modifying the order. They ought to do so in the first instance. There is no warrant for our interfering at this stage.

6. The petition is, therefore, disposed of with liberty to the petitioners to make an application to the DRT for setting aside or modifying the impugned order.

(S.J. VAZIFDAR)
ACTING CHIEF JUSTICE

03.06.2016
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(ARUN PALLI)
JUDGE