

THE HON'BLE SRI JUSTICE A.RAMALINGESWARA RAO

**WRIT PETITION Nos. 44761, 44762, 44763, 44764, 44765, 44766,
44818, 44819, 44822, 44826, 44828 and 44829 of 2016**

COMMON ORDER:

These writ petitions are being disposed of by this common order as they relate to the proposed action of the respondents in taking further steps pursuant to an order passed by the Adjudicating Authority confirming the order of provisional attachment and disposing of the original complaints before it.

Initially, in all these cases, learned Single Judge of this Court passed common order, dated 21.12.2016. The operative portion of the said order reads thus:

“Respondents Nos.2 and 3 are directed not to proceed further with the assets of the petitioners either movable or immovable, till filing of the appeal by the petitioners within the statutory period and also till disposal of the stay applications that may be filed by the petitioners herein. Further, the appellate-authority is directed to dispose of the stay applications that may be filed by the petitioners independently, without being influenced by this order.”

While noticing that the last date for preferring the appeals expires by 17.01.2017, and since time was available, appeals were not filed by the petitioners. However, aggrieved by the said common order, more particularly, the observations relating to the appeals to be filed within the statutory period and construing the said order as lack of power on the part of the respondents in proceeding ahead within the said statutory period, the writ appeals were preferred before the Division Bench and the Division

Bench passed common judgment, dated 05.01.2017, relevant portion of which reads thus.

“The order, impugned in the writ petitions, lists several immovable properties, shares and debentures in various companies and fixed deposits belonging to the persons named therein. In so far as the fixed deposits are concerned, learned Additional Solicitor General, and the learned Senior Counsel appearing on behalf of the respondents - writ petitioners agree that the proceeds of these fixed deposits have already been withdrawn by the Enforcement Directorate. In so far as the immovable properties are concerned, Rule 5 of the Prevention of Money Laundering (Taking Possession of Attached or Frozen Properties confirmed by the Adjudicating Authority) Rules, 2013 (the “2013” Rules for short) prescribes the manner in which its possession must be taken. The appellants herein are permitted to take action in accordance with Rule 5 of the 2013 Rules subject, however, to the condition that they shall not forcibly take delivery of these immovable properties, from the respondents - writ petitioners, before 31.01.2017.

In so far as shares and debentures, in the various companies listed in the impugned order, are concerned, Sri S. Niranjana Reddy, learned Senior Counsel appearing on behalf of the respondents - writ petitioners, would submit that, even before an Order of Provisional Attachment was passed, M/s. Sandur Power Company Private Limited had sold their shares in M/s. Reliance Industries Limited, M/s. NMDC Limited and M/s. Cairn India Limited (referred to at serial Nos.8 to 10 in the table relating to movable properties). As these shares are said to have been sold, even prior to the order of provisional attachment, no orders need be passed in this regard. With regards shares and debentures in the companies, listed at serial Nos.1 to 7 and 11 (of the table relating to movable properties) are concerned, all these companies are directed not to pay either interest or dividend to the parties, referred to as the owner of the shares/debentures in the said table, till 31.01.2017. It is open to the appellants to inform the companies, referred to at serial No.1 to 7 and 11 of the aforesaid table, of their obligations under this order.

The orders now passed by us shall remain in force only till 31.01.2017 and, in the absence of any order being passed hereinafter either by the appellate authority under the 2002 Act or

by the learned Single Judge restraining them from taking delivery of the movable and immovable properties referred to in the impugned orders, it would be open to the appellants herein to take action in terms of the order, impugned in the Writ Petition, and in accordance with law. We make it clear that both the learned Single Judge before whom all these writ petitions shall now be listed and the appellate authority under the 2002 Act, before whom the appeals, along with interlocutory applications seeking stay of the operation of the order impugned in the writ petition, are said to have been filed, shall consider the interlocutory applications, filed by the respondents - writ petitioners, on its merits uninfluenced by any observations made in the order now passed by us. Needless to state that it is always open to the respondents - writ petitioners herein to request the learned Single Judge to take up all these Writ Petitions for admission, and for orders to be passed in the interlocutory applications, at an early date.

The orders under appeals are set aside, and all the appeals are disposed of accordingly. No order as to costs. As a sequel thereto, Miscellaneous Applications, if any, pending in these Writ Appeals stand disposed of."

In the meanwhile, the petitioners preferred appeals along with applications seeking stay of execution of the orders of the Adjudicating Authority and they are pending.

It is stated by the learned counsel for the petitioners that the stay applications are posted to 07.02.2017 and 10.02.2017. The judgment rendered by the Division Bench remains in force till today and the petitioners apprehend that further action would be taken by the respondents, if the judgment is not extended at least till 10.02.2017. It is also stated by the learned counsel for the petitioners that if the judgment is not extended beyond 10.02.2017 and time is taken by the respondents for filing counter-affidavit or otherwise, their cases would be prejudiced.

In the circumstances, it is in the fitness of things that the judgment rendered by the Division Bench on 05.01.2017 is extended till 10.02.2017 in order to enable the appellate authority to pass appropriate orders on the stay applications preferred by the petitioners in the pending appeals.

Learned counsel for the respondents undertook to file counter-affidavits in the said stay applications and cooperate with the disposal of the stay applications before that date. Learned counsel for the petitioners also submits that the petitioners would not seek adjournment.

Hence, the judgment rendered by the Division Bench restraining the respondents from taking further steps pursuant to the order of the Adjudicating Authority is extended up to 10.02.2017 and the appellate authority, before whom the appeals filed by the petitioners are pending, is directed to dispose of the stay applications in the pending appeals on or before 10.02.2017 positively. If, for any reason, the stay applications are not disposed of by that date, it is for the appellate authority to pass appropriate orders keeping in view the circumstances of the case, on a request made by the petitioners herein before the said authority. It is made clear that this Court is disposing of these writ petitions in the facts and circumstances of the case without recording any findings on the relief sought in the present writ petitions.

The Writ Petitions are accordingly disposed of.

Miscellaneous petitions, if any, pending in these writ petitions shall stand closed. There shall be no order as to costs.

A.RAMALINGESWARA RAO,J

Dt:31.01.2017

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