

THE HON'BLE THE ACTING CHIEF JUSTICE RAMESH RANGANATHAN

AND

THE HON'BLE Dr. JUSTICE SHAMEEM AKTHER

Writ Appeal No.234 of 2017

Judgment: (Per the Hon'ble The Acting Chief Justice Ramesh Ranganathan)

This appeal, under Clause 15 of the Letters Patent, is preferred against the interlocutory order passed by the learned Single Judge in W.P.M.P. No. 17460 of 2016 in W.P. No.13987 of 2016 dated 25.4.2016. While the interim order appears to have been passed on the basis that the signature on the cheque belongs to a person other than the person to whose bank account the cheque was issued, it does appear that the person who issued the cheque was authorized to do so.

Sri R. Dheeraj Singh, learned counsel for the 1st respondent-writ petitioner, would draw our attention to the petition filed under Section 138 of the Negotiable Instruments Act, 1881 wherein the notice sent to the 1st respondent-writ petitioner is stated to have been refused. The envelope, through which the notice is said to have been sent, however contains the endorsement 'NSP' ie "no such person is available at that address" and not that it was "refused". Sri R. Dheeraj Singh, learned counsel, would submit that the complaint was filed on false averments, and suppression of material facts; and this, by itself, would disentitle the petitioner from being granted any relief.

As this appeal is only against an interlocutory order passed by the learned Single Judge, it would be wholly inappropriate for us to express any opinion on the rival submissions. Suffice it to observe that, since the interlocutory order was passed more than ten months ago, we see no reason to interfere therewith as the

appellant can always file a petition seeking vacation of the said interim order.

Leaving it open to the appellant to do so, the writ appeal fails and is, accordingly, dismissed. Miscellaneous Petitions pending, if any, shall also stand dismissed. There shall be no order as to costs.

(RAMESH RANGANATHAN, ACJ)

(Dr. SHAMEEM AKTHER, J)

2nd March, 2017

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