

THE HON'BLE THE ACTING CHIEF JUSTICE RAMESH RANGANATHAN
AND
THE HON'BLE Dr. JUSTICE SHAMEEM AKTHER

Writ Petition No.8318 of 2017

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

Heard Sri Vedula Venkataramana, learned Senior Counsel appearing on behalf of Sri N. Indrasena Reddy, learned counsel for the petitioner, and Sri M. Srikanth Reddy, learned Standing Counsel for the respondent-bank.

This writ petition is filed to declare the action of the respondent-bank in conducting auction of the land, building, plant and machinery of the petitioner-company, pursuant to the auction notices dated 30.12.2016 and 10.2.2017 without actual possession, as arbitrary and illegal.

When the matter came up before us yesterday, Sri M. Srikanth Reddy, learned Standing Counsel for the respondent-bank, pointed out that the petitioner had suppressed relevant and material facts of their having filed W.P. No. 13603 of 2016, and S.A. No. 132 of 2015 before the Debts Recovery Tribunal, earlier.

W.P. No. 13603 of 2016 was disposed of by a Division Bench of this Court by order dated 21.4.2016 directing the respondent-bank to take constructive possession, and permit the petitioner to continue in physical possession for a period of two months under the control and possession of the bank; in the meanwhile, it was left open to the petitioner to work out his remedies if any before the DRT in S.A. No. 132 of 2015, and in interim application No. 810 of 2015; and the interim arrangement was to continue for two months subject to the petitioner paying the bank a minimum of Rs.10.00 crores on or before 31.5.2016. The Division Bench observed that,

in case of failure to pay the said amount, the bank was at liberty to proceed further by dislodging the petitioner, taking physical possession, and taking further steps for sale without any further reference to the Court. S.A. No. 132 of 2015 was dismissed as not pressed by order dated 2.1.2017.

Sri M. Srikanth Reddy, learned counsel for the respondent-bank would submit that, despite the specific direction by the Division Bench in its order in W.P. No. 13603 of 2016 dated 21.4.2016 directing the petitioner to pay Rs.10.00 crores before 31.5.2016, not a single rupee has been paid by them to the bank in terms of the said order. It is disconcerting that all these facts have been suppressed in the affidavit filed in support of the writ petition, and the petitioner has abused the process of Court.

When we pointed this out to Sri Vedula Venkataramana, learned Senior Counsel, yesterday, learned Senior Counsel expressed surprise and requested that the matter be posted today to enable him to obtain instructions. Today Sri N. Indrasena Reddy, learned counsel for the petitioner, expresses ignorance of these two orders. The fact remains that the petitioner has suppressed material and relevant facts, and has sought to mislead this Court. It is only because these facts were brought to our notice by Sri M. Srikanth Reddy, learned counsel for the respondent-bank, at the stage of admission itself that the petitioner's attempt to mislead this Court has come to light.

As the petitioner has abused the process of Court, we dismiss the Writ Petition with exemplary costs of Rs.50,000/- (Rupees Fifty Thousand Only) which the petitioner shall pay to the respondent-bank within four weeks from today, failing which it is open to the

respondent-bank to take such steps, as are available to them in law, for recovery of the said amount.

Miscellaneous Petitions pending, if any, shall also stand dismissed.

(RAMESH RANGANATHAN, ACJ)

(Dr. SHAMEEM AKTHER, J)

24th March, 2017

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Date: 24.3.2017

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