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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ CM(M) 876/2017
PUNJAB NATIONAL BANK Petitioner
Through: Mr. Vipin Jain & Mr. Vipul Jai, Advs.
Versus
KSL AND INDUSTRIES LTD & ANR Respondents
Through: None.

CORAM:

HON'BLE MR. JUSTICE RAJIV SAHAI ENDLAW

ORDER

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18.08.2017

CM No.29309/2017 (for exemption)

1. Allowed, subject to just exceptions.
2. The application is disposed of.

CM(M) 876/2017

3. This petition under Article 227 of the Constitution of India seeks time bound disposal of Civil Suit No.57637/2016 titled 'KSL and Industries Ltd. & Anr. Vs. Punjab National Bank' of the Court of Senior Civil Judge (SCJ)-cum-Rent Controller, New Delhi.
4. I am constrained to observe that from the memorandum of petition nothing can be understood. Not only is the language not coherent but sentences have been left midway.
5. What transpires on reading the entire paper book is i) that the respondents / plaintiffs instituted a suit against the petitioner / Punjab National Bank in the Courts at Mumbai, to restrain the petitioner / Bank from initiating / proceeding with, the proceedings against the respondents / plaintiffs in the Court at Hong Kong for recovery of the dues claimed by the petitioner Bank; ii) that though it was held that the Court at Mumbai had no

territorial jurisdiction and the plaint ordered to be returned to the respondents / plaintiffs but the *ex parte anti* suit injunction granted by the Mumbai Court, restraining the petitioner / Bank from taking further steps in the proceedings before the Hong Kong Court continued for some time to enable the respondents / plaintiffs to institute the suit in the Court of appropriate jurisdiction; iii) that thereafter the respondents / plaintiffs instituted the suit from which this petition arises, before the Court of SCJ, Delhi and Ms. Kiran Gupta, SCJ, New Delhi, vide order dated 18th October, 2014 issued summons of the suit to the petitioner / defendant Bank and restrained the petitioner / defendant from taking further steps in the proceedings before the Hong Kong Court; and, iv) that though the petitioner / defendant appeared before the Court of SCJ on the very next date i.e. 30th October, 2014 but the suit continued to languish before Ms. Kiran Gupta, SCJ till 9th February, 2016 without arguments on the application for interim relief being heard.

6. It appears that the respondent no.1 / plaintiff, in the interregnum, filed a reference for being declared as a sick company within the meaning of Sick Industrial Companies (Special Provisions) Act, 1985 (SICA) and filed an application under Section 22 of SICA in the suit and which was entertained and dates given for consideration thereof and arguments on the application for interim relief were derailed.

7. With effect from 4th March, 2016, Ms. Priya Mahendra took over the Court of the SCJ, and before her also, the suit continued to languish at the same position till 20th December, 2016 and now with effect from 14th February, 2017, the suit is pending before the Court of Ms. Vandana Jain,

SCJ, New Delhi.

8. It is indeed found that there has been neglect by the Judicial Officers named above in disposing of the application for interim relief, not realising that *ex parte anti* suit injunction which is to be granted in rarest of rare situations is continuing against the petitioner Bank and resulting in recovery of public monies being held up.

9. The adjournments granted by the Judicial Officers aforesaid, for consideration of the application under Section 22 of SICA are also found to be totally misconceived. Not only did Section 22 have no application to a suit filed by a company which had made reference to Board for Industrial and Financial Reconstruction (BIFR) or which had been declared sick, but SICA itself was repealed with effect from 1st December, 2016.

10. The counsel for the petitioner Bank informs that the application of the respondents / plaintiffs under Section 22 SICA has now been dismissed on 3rd August, 2017.

11. It is further informed that the suit is listed next on 12th September, 2017.

12. In the situation aforesaid, it is deemed appropriate to allow the petition by directing time bound disposal of the suit aforesaid and / or in any case the application for injunction therein.

13. For issuing such a direction, need to issue notice to the respondents/plaintiffs is not felt.

14. The petition is disposed of by directing the learned SCJ before whom the suit is now pending to dispose of the application under Order XXXIX Rules 1&2 CPC latest by end of September, 2017 and to also expeditiously

deal with the suit.

15. A copy of this order be forwarded to all the aforesaid Judicial Officers for introspection and to take care in future and be also placed before Hon'ble the Chief Justice for consideration, for any other administrative action required in the matter.

RAJIV SAHAI ENDLAW, J

AUGUST 18, 2017

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