IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

NOTICE OF MOTION NO. 28 OF 2018
IN
WRIT PETITION NO. 1208 OF 2002

Panther Fincap and Management
Services Ltd. ....Applicant
V/s.
Anurag Prasad and 3 Ors. ....Respondents

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Mr. Nitesh Joshi a/w. Mr. Atul Jasani, Advocate for the applicant, original petitioner.

Mr. Arvind Pinto, Advocate for respondents no.1 to 3.

Ms. Pooja Karadia a/w. Ms. Nehali Panchal i/by. Nahush Shah Legal, Advocate for respondent no.4.

CORAM :- M.S. SANKLECHA, &

SANDEEP K. SHINDE, JJ.

DATE :- 1ST MARCH, 2018.

P.C. :-

1. This Notice of Motion is taken out for early hearing of the Writ Petition and also to permit the

petitioner to utilise the amounts lying with the Prothonotary & Senior Master to be paid over to the Bank of India in discharge of the applicant's obligation.

2. The petition has been filed challenging the provisional attachment made under Section 281B of the Income Tax Act, 1961 ("the Act" for short). The petition was admitted in 2002 and certain interim directions were passed which resulted in the sale proceeds of attached shares being deposited in the Court. According to the petitioner, the amounts lying with the Prothonotary & Senior Master is today approximately Rs.33 crores.

3. In view of failure of the applicant to honour its commitment to the Bank of India, the Apex Court on 17th July, 2017 passed an interim order in Special Leave Petition, filed from an order emanating from the DRT proceedings, directing the petitioner to deposit a sum of Rs.50 crores within a period of 8 weeks from 17th July, 2017 failing which the order of detention in a civil prison is to be given effect to. It is the petitioner's case that, the

provisional attachment under Section 281B of the Act has lived its life as more than two years are over after completion of assessment proceedings. Therefore, the petitioner would be entitled to the amounts lying with the Prothonotary & Senior Master which could be utilised to honour their commitments made to the Apex Court.

4. Mr. Joshi, on instructions states that the applicant is in financial difficulties and is not in possession of funds to honour the order of the Apex Court dated 17th July, 2017. This may result in the directors of the petitioner being imprisoned.

5. In the above view, the Notice of Motion is made absolute in terms of prayer clause (a).

6. The petition to be on board for hearing on 19th March, 2018 alongwith Income Tax Appeal No. 1742 of 2010.

(SANDEEP K. SHINDE, J) **(M.S. SANKLECHA, J)**