

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 17.12.2018

CORAM

THE HONOURABLE MR.JUSTICE M.S. RAMESH

C.R.P.Nos.4321 & 4322 of 2015

and

M.P.No.1 of 2015 in C.R.P.No.4321 of 2015

M/s. GTV Spinners Private Ltd.,
(Now known as Selvarani Spinning Mills Private Limited)
Having its office at Dhanalakshmi Street,
No.10-A, Vivekananda Nagar Extension,
Dindigul.

...Petitioner in both petitions

Versus

M/s.Sundaram Finance Limited,
Having its Office at
No.303-a/304 Avinashi Road,
Coimbatore - 18.

...Respondent in both petitions

Civil Revision Petitions filed under under Article 227 of
the Constitution of India, praying to set aside the Fair and
Decreeral Order of the learned Principal District Judge's Court
at Tiruppur, dated 01.07.2015 in E.A.Nos.114 & 115 of 2014
respectively in E.P.No.9 of 2012.

For Petitioner : Mr.P.Valliappan

For Respondent : Mr.T.Srinivasaraghavan for
M/s.T.S.Srinivasaraghavan & ASSO

COMMON ORDER

Both the Civil Revision Petitions have been filed
challenging the rejection of the applications filed by the
petitioner, seeking for re-calling

the order of attachment and for stay of the all further
proceedings in the Execution Petition, pending final decision in
IFR No.17 of 1998 on the file of the Board for Financial and
Industrial Reconstruction (hereinafter referred to as BIFR).

2.The main ground raised in these petitions is that the enquiry under Section 16 of the Sick Industrial Companies (Special Provisions) Act, 1985 (in short 'SICA') is pending before the BIFR and therefore, the petitioner had sought for staying of the execution proceedings, till the final decision is arrived at by BIFR.

3.Pending the Civil Revision Petitions, the Sick Industrial Companies (Special Provisions) Act came to be repealed w.e.f. 25.11.2016, whereby the BIFR came to be dissolved by virtue of Section 3 of the Repeal Act (Act 1 of 2004). Hence, the reference before the BIFR also stood abated. The main ground raised by the petitioner to stay the execution proceedings is the pendency of the reference before the BIFR. Now, the BIFR itself having been dissolved, the ground raised in the applications filed by the petitioner became infructuous and therefore, the applications cannot be maintained. As such, I do not find any reason as to how the petitioner can sustain this objection before the trial Court.

4.The learned counsel for the petitioner submitted that though they have raised this ground before the Trial Court, the order was passed only on the reason that the petitioner herein has been set exparte, which exparte order has not been set aside till date.

5.According to the learned counsel for the petitioner, the trial Court had not assigned any reason for rejection, in respect of the ground raised by the petitioner herein and the order itself is non-speaking order. Even assuming that the petitioner herien is entitled to make out the application raising its objection before the Execution Court, I am unable to contemplate as to how they can take shelter on the pendency of the proceedings before the BIFR, when the proceedings itself had abated. Even on merits of the applications, the petitioner may not have the case before the Execution Court.

6.Hence, the Civil Revision Petitions stand dismissed. Consequently, connected Miscellaneous Petitions are closed. No costs.

Sd/-
Assistant Registrar

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Sub Assistant Registrar

rli/klt

To

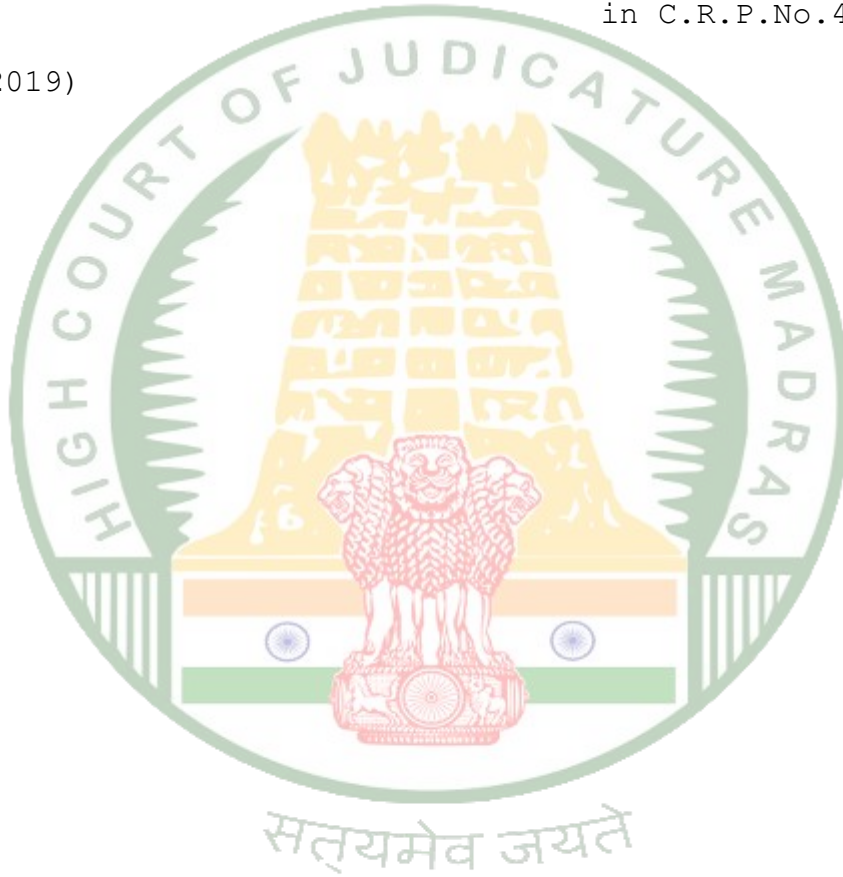
The Principal District Judge,
at Tiruppur.

+1cc to Mr.P.Valliappan, Advocate, S.R.No. 88084

C.R.P.Nos.4321 & 4322 of 2015
and

M.P.No.1 of 2015
in C.R.P.No.4321 of 2015

KS (CO)
GN(28/01/2019)



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