

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 12.04.2018

CORAM:

THE HONOURABLE MR.JUSTICE S.MANIKUMAR
and
THE HONOURABLE MRS.JUSTICE V.BHAVANI SUBBAROYAN

W.P.No.8892 of 2018

and

W.M.P.Nos.10746 to 10748 of 2018

- 1.M/s.A.R.Moulds and Dies India Private Limited
Rep. by its Managing Director, Mr.Y.Rajan
Nos.33, 34 (3A-5, 3A-6), Anns Estate
Alamelumangapuram
Ganapathy P.O.
Coimbatore - 641 006.
- 2.M/s.A.R.Die Casts India Pvt. Ltd.,
Rep. by its Managing Director, Mr.Y.Rajan
Nos.33, 34 (3A-5, 3A-6), Anns Estate
Alamelumangapuram
Ganapathy P.O.
Coimbatore - 641 006.
- 3.Mr.Y.Rajan
Managing Director
M/s.A.R.Moulds and Dies India Private Limited
Nos.33, 34 (3A-5, 3A-6), Anns Estate
Alamelumangapuram
Ganapathy P.O.
Coimbatore - 641 006.

.. Petitioners

सत्यमेव जयते
Vs.

M/s. International Asset Reconstruction Company Pvt. Ltd.,
Represented by its Authorised Officer
2B, K.G.Retreat, Old No.119, New No.26
G.N.Chetty Road,
T.Nagar,
Chennai - 600 017.

.. Respondent

Prayer: Writ Petition is filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Certiorarified Mandamus, calling for the records relating to the impugned order passed by the Debts Recovery Appellate Tribunal in I.A.No.279 of 2018 in A.I.R.(S.A.)No.117 of 2018 on

14.03.2018, and quash the same and consequently direct the Registry of the Debts Recovery Appellate Tribunal to number the appeal filed by the petitioner in A.I.R.(S.A.)No.117 of 2018.

For Petitioner : Mr.T.Sai Krishnan

ORDER

(Order of this Court was made by S.MANIKUMAR, J.)

Order dated 14.03.2018, impugned in the instant writ petition, reads thus:-

"PROCEEDINGS DATED 14.03.2018

Ld. Counsel Mr.T.Sai Krishnan for Appellants present.

Ld. Counsel Mr.Chethan Sagar for Respondent IARC present.

Heard on IA-279/2018, which is as application for waiver of pre-deposit.

Appellants have challenged the order dated 8.2.2018 of DRT, Coimbatore, by which IA-2375/2017 in S.A.No.90/2013 was dismissed.

Counsel for Appellants fairly submits that respondent Axis Bank had issued two Demand Notices on 3.11.2012 for a demand of Rs.6,37,45,462/-. Counsel submits that the amount has not been crystallised so far and Appellants have challenged only the interim order by which status quo order was vacated. Property is agricultural in nature and is beyond the scope of SARFAESI Act.

Counsel for the respondent submits that since last about more than five years, respondent is looking for recovery of the amount and proceedings are being dragged on unnecessarily. Whether loan in question is agricultural or not is a debatable point. As on today, due amount has become more than Rs.15 Crores.

Whatever has been averred by the counsel of the parties shall be heard and decided at the time of final hearing of the case. However, in view of the fact that DRAT cannot entertain any appeal without ensuring the pre-deposit of 50% of the debt amount, which cannot be reduced to less than 25% in any case, on the basis of Rs.6.37 Crores, I hereby direct the Appellants to make a pre-deposit of Rs.2 Crores in two instalments. Out of which, first instalment of Rs.1 Crore shall be deposited with the Registrar of this Tribunal within a period of four weeks from today and the second instalment of Rs.1 Crore shall be deposited in next four weeks thereof.

It is made clear that if the Appellants fail to

make the first instalment pre-deposit within the stipulated period, the Appeal shall automatically stand dismissed without reference to this Tribunal.

IA-279/2018 is disposed of.

List for confirmation of first instalment pre-deposit of Rs.1 Crore on 11.4.2018."

2. On this day, when the matter came up for hearing, Mr.T.Sai Krishnan, learned counsel for the petitioners submitted that, for non-compliance of the interim order dated 14.03.2018, I.A.No.279 of 2018 has been dismissed on 11.04.2018 and consequently, A.I.R.(S.A.)No.117 of 2018, has been rejected.

3. Though Mr.T.Sai Krishnan, learned counsel for the petitioners submitted that instant writ petition has been filed 09.04.2018, much earlier than the date fixed for compliance i.e.11.04.2018, and also made submissions seeking for reversal of the order dated 14.03.2018, this Court is not inclined to accept the said contention for the reason that, it is well settled that interim order merge with final orders. Reference can be made to few decisions:

(i) In South Eastern Coalfields Ltd v. State of M.P. and others reported in (2003) 8 SCC 648, the Hon'ble Supreme Court held as follows:

"The scope of the provision is wide enough so as to include therein almost all the kinds of variation, reversal, setting aside or modification of a decree or order. The interim order passed by the court merges into a final decision. The validity of an interim order, passed in favour of a party, stands reversed in the event of a final decision going against the party successful at the interim stage. Unless otherwise ordered by the Court, the successful party at the end would be justified with all expediency in demanding compensation and being placed in the same situation in which it would have been if the interim order would not have been passed against it."

(ii) In Prem Chandra Agarwal and another v. Uttar Pradesh Financial Corporation and Others reported in (2009) 11 SCC 479, the Hon'ble Supreme Court held that once a final order is passed, all the earlier interim orders merge into the final order, the interim orders cease to exist.

(iii) In State of West Bengal and Others Vs Banibrata Ghosh and Others reported in (2009) 3 SCC 250, the Hon'ble Apex Court held that the Interim Order doest not decide the fate of the parties to the litigation finally, it is always subject to and merges with the final order passed in the proceedings.

4. In the light of the discussion and the decisions cited supra, prayer sought for cannot be granted. Accordingly, the writ petition is dismissed. However, it is open to the petitioner to challenge the final order dated 14.03.2018, made in I.A.No.279 of 2018 and A.I.R.(S.A.)No.117 of 2018 on the file of the DRAT, Chennai, if so desires. No costs. Consequently, the connected writ miscellaneous petitions are closed.

Sd/-
Assistant Registrar(CS III)

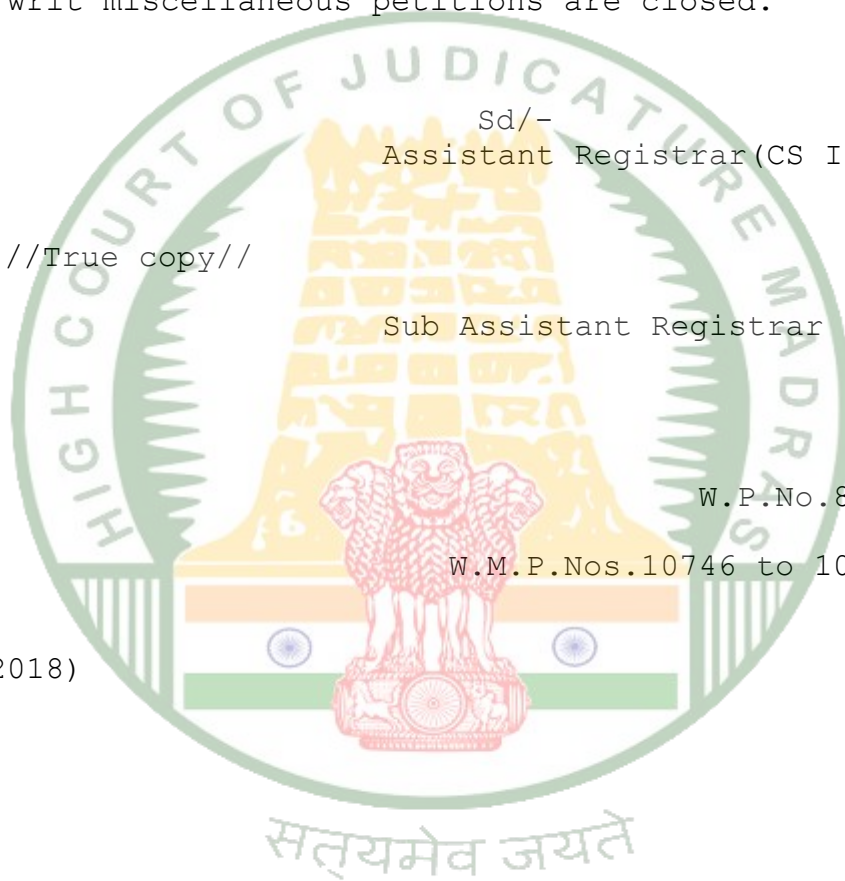
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Sub Assistant Registrar

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W.P.No.8892 of 2018
and
W.M.P.Nos.10746 to 10748 of 2018

RR(CO)
GN(07/05/2018)



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