

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 18.12.2018

CORAM :

THE HONOURABLE MR.JUSTICE N.KIRUBAKARAN
and
THE HONOURABLE MR.JUSTICE ABDUL QUDDHOSE

O.S.A.Nos.270 to 273 of 2018
and
C.M.P.Nos.12548 & 12549 of 2018
in
O.S.A.Nos.272 & 273 of 2018

Hardy Exploration & Production (India) Inc.
Having its office at
5th Floor, Westminster Building,
108, Dr.Radhakrishnan Salai,
Chennai - 600 004. .. Appellant in all the O.S.A's

-vs-

1.Samson Maritime Limited,
Having its registered office at,
201-202, 2nd floor, Raheja Xion,
Dr.Babasaheb Ambedkar Road,
Near DCP office Zone III, Byculla (East)
Mumbai - 400 027
Rep by its Authorized Signatory,
Kunal Trivedi.

2.Kotak Mahindra Bank,
185, Near TVS, Mount Road Branch,
Anna Salai, Chennai 600 006.

3.State Bank of India, सत्यमेव जयते
Egmore Branch,
Egmore, Chennai 600 008.

4.The Secretary,
Ministry of Petroleum and Natural Gas,
Government of India, New Delhi.

(R4 Suo Motu impleaded as a party respondent
vide Court order dated 25.09.2018 made in
C.M.P.Nos.12511 to 12513 of 2018 in
O.S.A.Nos.270 to 273 of 2018.(NKKJ & SBJ)

.. Respondents in all
the O.S.A's

COMMON PRAYERS: Original Side Appeals filed under Order 36 Rule 1 of O.S. Rules read with Clause 15 of the Letters Patent Appeal against the fair and decretal orders dated 06.06.2018 made in E.A.Nos.437 to 440 of 2018 in E.P.Nos.11 & 12 of 2017.

E.A No.437 of 2018

Application praying that this Honourable Court be pleased to raise the order of attachment relating to Judgment Debtors bank account bearing No.10265127624 held with the State Bank of India Egmore Branch and permit the Judgement debtor to operate he said account for day to day operation of the Judgement Debtor India Office.

E.A No.438 of 2018

Application praying that this Honourable Court be pleased to raise the order of attachment relating to Judgment Debtors bank account bearing No.10265127624 held with the State Bank of India Egmore Branch and permit the Judgement debtor to operate he said account for day to day operation of the Judgement Debtor India Office.

E.A No.439 of 2018

Application praying that this Honourable Court be pleased to direct the garnishee/State bank of India Egmore Branch to exclude the Site Restoration Fund Deposities bearing CIF NO.85024991365 from prohibitory order dated 25/10/2017.

E.A No.440 of 2018

Application praying that this Honourable Court be pleased to direct the garnishee/State bank of India Egmore Branch to exclude the Site Restoration Fund Deposities bearing CIF NO.85024991365 from prohibitory order dated 25/10/2017.

EP No.11 of 2017: This Execution Petition praying that this Honourable Court be Pleased to an order Prohibiting the garnishee i.e. Kotak Mahindra bank, Mount Road Branch Chennai from parting with the funds lying in account No.407011007792, 407011007802, 407011006585, 407011007813 and 2. State Bank of India, Egmore Branch, Chennai from parting with the funds lying in Account No. 10265127624, 30207716017 and 30379078869, lying in their custody of the garnishee as described in the schedule hereto, of which the Judgment Debtor is the Sole Account Holder, and further direct the garnishee to deposit the funds lying in hands to the credit of the present Execution petition hereto under Order 21 Rule 12 and 46A the Civil Procedure Code.

EP No.12 of 2017:

This Execution Petition praying that this Honourable Court be Pleaded to an order Prohibiting the garnishee i.e 1.Kotak Mahindra bank, Mount road Branch, Chennai from parting with the funds lying in Account No. 407011007792, 407011007802, 407011006585, 407011007813 and 2 state Bank of India, Egmore, Branch, Chennai from parting with the funds lying in Account No.10265127624, 30207716017 and 30379078869, lying in their Custody of the garnishee as described in the schedule hereto, of which the Judgment Debtor is the sole Account Holder, and further direct the garnishee to deposit the funds lying in its hands to the credit of the present Execution petition.

For Appellant : Mr.Abraham Vishal Jacob,
For Respondents : Mr.P.Giridharan
1 and 2 Mr.Chavannan Mohan
for M/s.King & Patridge for R3
Mr.G.Karthikeyan,
learned Assistant Solicitor General R4

C O M M O N J U D G M E N T
(Judgment of the Court was delivered by N.KIRUBAKARAN, J.)

These appeals have been filed against the common order passed by the learned Single Judge in A.Nos.437 to 440 of 2018 and E.A.Nos.3047 to 3050 of 2018 in E.P.Nos.11 and 12 of 2017.

2.The 1st respondent is the decree holder under a valid award and for executing the valid award, the above execution petitions have been filed for execution. Four applications have been filed viz., E.A.Nos.3048 & 3049 of 2018 to detain the authorised signatory of the Judgment Debtor in civil prison as per Order 21 Rule 41 (3) of the Code of Civil Procedure for concealing the details of the bank accounts in the letter dated 06.05.2016 and for violating the order dated 27.04.2016. Application Nos.3047 & 3050 of 2018 have been filed to prohibit the 2nd respondent/garnishee bank from parting with the funds lying in Site Restoration fund deposits. Application Nos.437 and 438 of 2018 have been filed to attach the Judgment Debtor's bank account bearing No.10265127624 held with the State Bank of India, Egmore Branch. Application Nos.439 & 440 of 2018 have been filed to direct the garnishee/State Bank of India to exclude the Site Restoration Fund deposits in the above account.

3.The learned Judge after hearing the parties directed the Judgment debtor/appellant to seek permission from the Ministry of Petroleum and Natural Gas, Government of India as

provided under the SRF scheme and the Site Restoration and Abandonment Guidelines for Petroleum Operations to withdraw funds from SRF account by furnishing a bank guarantee equivalent to the amount. After such permission was obtained by the Judgment Debtor, the said amount was directed to be deposited to the credit of E.P.Nos.11 and 12 of 2017 to satisfy the award dated 25.02.2015 and the additional award dated 29.10.2015. Since the above directions have been given in A.Nos.437 & 438 of 2018 and the A.Nos.3047 to 3050 of 2018 are closed, these present appeals have been filed.

4. Heard Mr. Abraham Vishal Jacob, learned Counsel for the appellant, Mr. P. Giridharan, learned Counsel for the respondents, Mr. Chavannan Mohan for M/s. King & Patridge for R3 and Mr. G. Karthikeyan, learned Assistant Solicitor General for R4.

5. When the matter is called today, the learned Counsel for the appellant would like to withdraw the appeals in O.S.A.Nos.270 & 271 of 2018. As far as O.S.A.Nos.272 & 273 of 2018 are concerned, this Court already Suo Motu impleaded the Ministry of Petroleum and Natural Gas, Government of India and directed as to whether it was possible to pass orders on the applications made by the appellant/Judgment Debtor for withdrawal of the Site Restoration Funds.

6. Mr. G. Karthikeyan, learned Assistant Solicitor General produced a communication dated 19.09.2018 rejecting the request for withdrawal of Site Restoration Funds. In view of that, the above appeals have become infructuous. However, the learned Judge while directing the appellant to approach the Ministry of Petroleum and Natural Gas, closed the applications in A.Nos.3047 to 3050 of 2018, without giving any orders.

7. Since the appellant is withdrawing O.S.A.Nos.270 & 271 of 2018 and an order has been passed by the Ministry of Petroleum and Natural Gas rejecting the request for withdrawal of Site Restoration Funds, the direction in O.S.A.Nos.272 & 273 of 2018 has been complied with. However, since no order has been passed in A.Nos.3047 to 3050 of 2018 and they were merely closed for the time being, the said applications are directed to be revived and it is up to the parties to agitate A.Nos.3047 to 3050 of 2018 before the learned Single Judge. The order passed by the Ministry of Petroleum and Natural Gas shall form part of the order.

8. The two appeals in O.S.A.Nos.270 and 271 of 2018 are dismissed as withdrawn and the two appeals in O.S.A.Nos.272 and 273 of 2018 are dismissed as infructuous with an observation that the applications in A. Nos. 3047 to 3050 of 2018 have been

revived. However, there shall be no order as to costs. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar (CS-VIII)

//True Copy//

Sub Assistant Registrar

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To

1. The Sub Assistant Registrar (O.S.)
High Court, Madras
2. The Secretary,
Ministry of Petroleum and Natural Gas,
Government of India,
New Delhi.

+1cc to Mr.G.Karthikeyan, Advocate, S.R.No. 88081
+1cc to Mr.Vinod Kumar, Advocate, S.R.No. 88034
+1cc to Mr.King & Partridge, Advocate, S.R.No. 87791

O.S.A.Nos.270 to 273 of 2018
and
C.M.P.Nos.12548 & 12549 of 2018
in
O.S.A.Nos.272 & 273 of 2018

GN(08/01/2019)

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