

Santosh

IN THE HIGH COURT OF BOMBAY AT GOA
CIVIL APPLICATION NO.84 OF 2019
IN
FIRST APPEAL NO. 53 OF 2019

Suranjan Kar. Rep. By their POA

and others.

.... Applicants.

Versus

Meta Copper and Alloys Ltd. & ors.

..... Respondents.

Mr. Nigel Da Costa Frias, Advocate for the Applicants.

Mr. Pulkit Bandodkar, Advocate for Respondent No.2.

Coram : M.S. Sonak &
Nutan D. Sardesai, JJ.

Date : 29th July, 2019.

P.C.:-

Learned Counsel for the parties state that there is no difficulty for this Bench to take up this matter.

2. Heard Mr. Nigel Costa Frias for the Applicants and Mr. P. Bandodkar for Respondent No.2.

3. By this Civil Application, the Applicants seek temporary injunction to restrain the Respondents from interfering with the assets of Respondent No.1 in any manner, selling or alienating or disposing of the assets belonging to Respondent No.2 herein.

4. Mr. Costa Frias submits that the suit, in which the Plaintiff came to be rejected, was instituted to recover the dues of the workmen. He submits that the rejection of the Plaintiff is not proper because the Applicants had not sought for any relief against Canara Bank and, in such circumstances, there was no question of non-suiting the Applicants by placing reliance upon the provisions of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002. He submits that Respondent No.1 is alienating the properties and if, ultimately, the suit is decreed, the Applicants might have only a paper decree. He, therefore, submits that the interim relief, as prayed for, is liable to be granted.

5. The record indicates that during the pendency of the suit, there was no any interim relief operating in favour of the Applicants. Besides, Respondent No.1 has filed an affidavit, in which it is stated that the immovable property of Respondent No.1 has already been transferred to third party on 10th March, 2017. In support, a transfer order issued by the Goa Industrial Development Corporation Ltd., has also been placed on record.

6. Mr. Costa Frias submits that apart from this immovable property, there are other immovable properties held by Respondent No.1. There are no particulars of such properties set out in the Civil

Application. In any case, taking into consideration the fact that the Plaint has already been rejected and even during the pendency of the Suit there was no interim relief, we are not inclined to grant the interim relief as prayed for. Besides, Mr. P. Bhandodkar who appears for Respondent No.2, has pointed out that Respondent No.1 has already given a Bank Guarantee in an amount of ₹ 1.00 crore or thereabouts to secure the claims of the workmen, before the Industrial Tribunal. This position is also not disputed by Mr. Costa Frias who, however, submits that the said Bank Guarantee is given to secure the claims of some other employees, and not the employees who have instituted the present Appeal.

7. Since the Appeal is already admitted and since an Appeal is continuation of the suit, if any transfers are made by Respondent No.1 they will be affected by the doctrine of *lis pendens*. This is an additional ground for declining an interim relief to the Applicants.

8. The Applicants, in effect, seek an order of attachment before judgment, without making out a case for grant of such a relief. Subject to the clarification that the doctrine of *lis pendens* will apply, this Civil Application is dismissed. Place a copy of this order in the main Appeal.

Nutan D. Sardesai, J.

M.S. Sonak, J.